

THE NINETEENTH CENTURY APPLICATION
OF THE
ACT OF DIVISION OF COMMONTY 1695
TO THE SCATTALDS OF SHETLAND

BY

SUSAN A. KNOX

Doctor of Philosophy
University of Edinburgh
1981



ABSTRACT

This study documents the transformation of the Shetland agricultural landscape during the nineteenth century, largely as a result of the enactment of legislation enabling the division of scattalds. The thesis spans the time period between the first informal divisions in the late eighteenth century to the passing of the Crofters Act in 1886. Since scattalds covered most of Shetland and formed an integral part of the subsistence economy, the legal reorganisation of the land tenure system brought about by scattald divisions had profound effects on the economic and social order of Shetland.

There were two methods of division. From 1790 until the early nineteenth century, the informal reorganization of scattald land by extrajudicial processes resulted in changes in the size, shape, and number of scattalds. By the mid-nineteenth century, lairds increasingly turned to legal divisions as a safe, sure process of establishing private property. The lairds' objectives, the severity of the disputes and the value of the scattald affected whether an extrajudicial or legal (either Sheriff Court or the more formal Court of Session) division procedure was chosen.

Substantial agrarian change during the nineteenth century can be attributed to scattald divisions. The breakdown of the subsistence economy followed the completion of divisions and the subsequent establishment of market-oriented livestock farms. Lairds interested in increasing productivity initiated such improvements as field enclosures, drained mosses, new crops and rotations, and an increased dependency on livestock. By the twentieth century, stock rearing became the dominant economic activity while the arable land was primarily used to cultivate fodder crops. Where sheep farms had been established, disruption to settlement patterns was considerable with most tenants being moved to other parts of the estate or other districts. Finally, emigration served as an outlet for those unwilling or unable to adapt to the new agricultural environment.

During the nineteenth century, the Shetland landscape was greatly transformed as a result of scattald divisions. However, the Crofters Act (1886) minimized the long-term impact. Arable land remained in private hands but many of the scattalds either continued to be used in common or reverted back to common use.

This thesis has been composed by the author from original research.

December 1980

ACKNOWLEDGEMENTS

I should like to thank many individuals and several institutions in both Shetland and Scotland for helping me in the accumulation of the information used in the writing of this thesis. My advisors, Dr. Ian Adams and Dr. Ian Morrison of the Geography Department, University of Edinburgh, have provided me with their clear, objective advice on the compilation of the thesis and I thank them for their support, encouragement and persistence in transatlantic communication. In addition, I have had the pleasure of discussing my thesis with a few colleagues including Marsha Renwanz, David Munro and Meredyth Somerville and I thank them for giving me their time, knowledge and numerous suggestions.

Local knowledge played an important role in this thesis and for this I am grateful to numerous Shetlanders. In particular, I would like to thank the Johnstons of Lerwick, the Leasks of Bigton, the Halcrows of Glover and the Halcrows of Tow (Cunningsburgh). With these families I spent many happy hours asking countless questions and I thank them for their patience and hospitality. In addition, many members of the Women's Rural Institute befriended me and provided me with numerous personal glimpses into the past.

As well as verbal information much of the basic material has come from manuscript sources. In Shetland I should like to extend my gratitude to Tom Henderson; the Scotts of Garth, Bressay; the staff of the Shetland library and museum, Lerwick; the local Shetland archivist, Brian Smith; and the staff of the Sheriff Court, Lerwick. Help in gathering literary and manuscript material has not of course only come from Shetland and I should like to thank the staffs of the Scottish Record Office, the National Register of Archives (Scotland) and the National Library of Scotland (Map Library) who assisted me in the long task of unearthing the story of the Shetland scattald divisions and who made academic research in Scotland a pleasure.

For the development of the photographic illustrations as well as for unlimited advice on the numerous diagrams in the text I am indebted to the cartographic unit, Department of Geography, University of Edinburgh. My thanks is also extended to the staff of Erindale College, University of Toronto (Canada), for their kindness in providing me with an office upon my return to Canada where I finished the writing of the thesis. In addition I should like to express my sincerest thanks to my typist, Sharon Bolt, for her unstinting labour and cheerfulness.

Finally, to Peter for his constructive criticism and continuous encouragement and to my parents and family for their constant support and patience, my gratitude is unending.

Susan A. Knox, 1980.

CONTENTS

	Page
Acknowledgements	iv
Illustrations	viii
Abbreviations	xi
INTRODUCTION	1
PART I	7
1. The Shetland Landscape in the Late Eighteenth Century	8
Dearth, Diet, and Disease	10
"The Rhythms of Crofting Activities"	16
Eighteenth Century Trade and Fishing	28
2. Scattald and Commonly Defined	37
Scattald Functions	38
3. Literature Survey	50
Recent Historical Studies	50
Contemporary Literature	54
Contemporary Documents	58
4. Developing a Scattald Map	63
Sources	64
Procedure	69
PART II THE RESOLUTION OF LAND PROPRIETORSHIP --	83
A STUDY OF DIVISIONS AS A PROCESS IN ISOLATION	
Introduction	84
5. The Informal Reorganization of the Scattald	87
Enclosures on the Scattald	88
Consolidation	111
6. Reasons for Formal Divisions	119
Grazing Rights	123
Fishing Rights	124

	Page
Peat Cutting	124
Mineral Rights	125
Urban Expansion	128
'Peerie v Muckle' Lairds	128
Enclosures	128
Sheep Farms	130
7. Sheriff Court Division	134
Judicial Recognition by Registration	137
Division by Arbitration	141
Conclusion	146
8. Court of Session Division	148
The Division of Commonly Act, 1695	148
The Role of the Court of Session	149
The Division Procedure	153
Division Expenses	158
Fitful Head -- The First Court of Session Division	160
The Progress of Division	165
Land Proprietorship Resolved	179
9. The Professionals	183
Valuators	184
Surveyors	193
Thomas Irvine -- A Case Study of a Shetland Surveyor	213
PART III POST - DIVISION LANDSCAPE	225
Introduction	226
10. The Transportation and Communication	232
11. Livestock	240
Poultry, Geese, Swine	243
Ponies	244

	Page
Cattle	249
Sheep	255
12. Crops	265
Grains	270
Green Crops	273
Natural and Rotation Grass	280
13. Enclosure, Drainage, Fertilizer, Rotation	287
Enclosure	287
Field Drainage	310
Fertilizers	313
Rotation or Cropping	314
14. Eviction and Emigration	318
15. The Napier Commission and the Crofters' Holding Act of 1886	335
CONCLUSION	341
Bibliography	348
Appendix A Directory of Shetland Scattalds	361
Appendix B Glossary	394
Appendix C Legal Terminology	399

ILLUSTRATIONS

Figures

FIG.	Page
1. Shetland Islands	4
2. Chronology of Events, 1700-1800	13
3. The Crofting Cycle	17
4a. Schematic Diagram of Scattald and Township	39
4b. A Typical Shetland Settlement	39
5. Fitful Head	71
6. North and South Cunningsburgh	72
7. Whiteness and Weisdale	78
8. The Shetland Scattalds	81
9. Flow Diagram	85
10. Part of Nippoback Scattald, Yell	90
11. The Division of Ungirsta Scattald	92
12. Outsets in Walls, Sandness, and Aithsting	98
13. Town of Ness	105
14. Time Span of Informal Divisions	105
15. Scattalds Owned by One Person	112
16. Sheriff Court Divisions	135
17. Court of Session Divisions	150
18. Fitful Head	161
19. Progress of Court of Session Divisions	167
20. Number of Scattald Divisions	176
21. Scattald Divisions	178
22. Legally Divided Scattalds	181
23. The Growth of the Valuator Profession in Shetland, 1815-1890	185
24a. Valuation of Clibberswick Scattald, 1862	192
24b. Clibberswick Scattald Division	192
25. Chain Survey	204
26. The Growth and Progress of Surveyors, 1790-1911	210
27. Number of Surveys Produced by Thomas Irvine	217
28. The Surveys of Thomas Irvine, 1820-1879	219
29. Livestock, 1865-1900	245
30. Mainland Shetland	258

	Page
31. Baliasta Scattald Division	258
32. Crop Acreages, 1866-1900	268
33. Crops	269
34. Acreages of Rotation Grass, 1866-1900	285
35. Sumburgh Farm	289
36. Bigton Farm	290
37. Mainland Shetland	297
38. Enclosures on the North Yell Scattalds, 1877	303
39. Enclosures on the Scattalds of North Unst, 1877	305
40. Population Trends	320
41. Reorganization of Land and Population	321
42. Summons of Removing, 1830-1900	324

Tables

1. Scattalds	82
2. Scattalds Owned by One Person	113
3. Divisions by the Sheriff Court	136
4. Court of Session Divisions	151
5. Valuers Operating in Shetland	187
6. Surveyors or Land Measurers Operating in Shetland	195
7. Livestock, 1866-1900	246
8. Number of Cattle, 1866-1900	253
9. Number of Sheep, 1866-1900	261
10. Crop Acreages, 1866-1900	267
11. Acreage of Barley, 1866-1900	272
12. Acreage of Turnips, 1866-1900	279
13. Acreage of Rotation Grass, 1866-1900	283
14. Acreage of Natural Grass, 1866-1900	284

Plates

(photographed by author unless otherwise specified)

1. 'Delling' team	18
2. Spade, Tushkar, Ripper	20
3. Casting peats	20
4. Raised peats	21

	page
5. Pony loaded with peats	21
6. Haaf fishing station	23
7. 'Rooring' sheep	24
8. 'Caaing' sheep	24
9. Horizontal Water-mill	26
10. Thatched house	26
11. Township of Leebotten	40
12. Head or Town dyke	40
13. Lime kiln	46
14. Plantie Crus	274
15. Bigton Farm, Dunrossness	290
16. Scattald boundary	298
17. Gardie House, Bressay	308
18. Sandlodge, Sandwick	308
19. Derelict Croft, Bressay	332

ABBREVIATIONS USED IN REFERENCES

ADM	Andrew Dishington Mathewson papers, Shetland Archives, Lerwick, Shetland
AF	Records of the Department of Agriculture and Fisheries, Scottish Record Office, Edinburgh
APS	Acts of Parliament of Scotland, 1424-1707 (2nd. revised ed., HMS , 1966)
CE	Customs and Excise records, Scottish Record Office, Edinburgh
Clark	Reverend George Clark's Diary (1921) Minister for Dunrossness, Shetland (Mail Church)
CS	Court of Session Records, Scottish Record Office, Edinburgh
D	designates some estate collections housed in the Shetland Archives, Lerwick
D6	E.S. Reid Tate collection, Shetland Archives and Shetland County Library, Lerwick, Shetland
D8	Bruce of Sumburgh MSS, Shetland Archives
D12	Neven of Windhouse papers, Shetland Archives
Edmondston	Edmondston of Bunes (Unst) papers, Shetland Archives
Garth	Gardie House MSS, Bressay, Shetland (part of collection catalogued as NRA (Scot) 0450; the rest is uncatalogued and is noted as Garth)
GD144	(Symbister Muniments) Gifts and Deposits, Scottish Record Office
GD236	(Dundas and Wilson Muniments) Gifts and Deposits, Scottish Record Office
Napier	Napier Commission. <u>Evidence taken by Her Majesty's Commissioners of Inquiry into the Condition of the Crofters and Cottars in the Highlands and Islands of Scotland.</u> 4 vols. Edinburgh, 1884.
Nicolson	Nicolson of Lochend papers, Shetland Archives, Lerwick
NRA(Scot)	National Register of Archives (Scotland), West Register House, Charlotte Square, Edinburgh

NSA	<u>New Statistical Account of Scotland</u> Edinburgh, 1845
OS	Ordnance Survey
OSA	<u>Statistical Account of Scotland drawn up from the communications of the ministers of the different parishes.</u> Sinclair, Sir John (ed.), Edinburgh, 1791-9 (21 vols.).
RHP	Register House Plan, Scottish Record Office
SA	Shetland Archives, Lerwick, Shetland
SC	Sheriff Court Records, County Buildings, Lerwick, Shetland
SN	<u>Shetland News</u>
SRO	Scottish Record Office, H.M. General Register House, Edinburgh
ST	<u>Shetland Times</u>
TI	Thomas Irvine of Midbrake MSS, Shetland Archives
VR	Valuation Roll, Scottish Record Office

INTRODUCTION

In recent years Shetland has been the focus of many studies. The impact of the discovery of oil and gas in the North Sea upon every aspect of the Shetland way of life is being analyzed in detail by various groups from a variety of view points. In evidence are the dramatic changes on the Shetland landscape. However, change is nothing new to these islands. "In the past, man has tried to harness the barren Shetland terrain and bring it into economic fruition" (MacGregor, 1976, 1). This thesis will examine previous attempts at land modification in Shetland during the nineteenth century and their impact on the modernization of Shetland society. These attempts stemmed from similar landscape changes undertaken by the Scottish landowners on the mainland during the previous century. During the so-called Agricultural Revolution of 1770 to 1830 much of the (mainland) Scottish countryside was radically changed through divisions and enclosures. This modification of the landscape was encouraged by government policy and agricultural enthusiasm on the part of the lairds and was the result of widespread divisions of the extensive common grazing lands (Millman, 1975, 112, 119, 125, 130).

Most of the land in Shetland was legally divided into individual holdings after the period of improvement in the rest of Shetland had ended.¹ Therefore, although improvements did not reach Shetland as early as they had reached other regions in Scotland -- in particular, the Lowlands -- the islands did undergo landscape changes as a result of improvement, particularly the divisions of the common lands locally known as "scattalds". This aspect of nineteenth century

¹The date that Millman (1975) notes as the end of the main period of agricultural improvement in Scotland is 1830.

development in Shetland has been virtually ignored in the past. A major reason for this void in Shetland history can be attributed to the lack of a systematic analysis of the Court of Session and Sheriff Court records as a primary source of information on the contemporary legal, economic and social changes that occurred at this time. By using these documents along with private estate papers, diaries, plans and contemporary literature this void may be filled.

The aim of the thesis is to examine the entire division period from the late eighteenth century when divisions began to occur on an informal level in Shetland, to 1886 when the Crofters' Holdings (Scotland) Act was passed.¹ However, according to documentary evidence the main period of scattald divisions was between 1850 and 1880.

"Thus, Improvement, at least in the form of divisions, did reach Shetland, and in a thirty year period, landscape changes occurred which greatly affected the social and economic order of the islands" (MacGregor, 1976, 3).

The major period of scattald divisions was one of the most important and disruptive phases in Shetland's history. Because the scattalds covered such a large proportion of the Shetland landscape,² any change in their legal status was bound to initiate landscape changes. It was said that,

"...the scathold or hill pasture, is the most valuable part of the Shetland islands. But this is only in consequence of their extent..." (Evershed, 1874, 194 quoting Shirreff, 1814).

In almost all parts of Shetland the lairds employed deliberate measures to divide the scattalds which had been used in common for centuries;

¹This Act had the effect of fossilizing the distribution of land in a position in which it has remained to this day (Nicolson, 1972, 80; Wheeler, 1964, 20).

²According to the Agriculture and Fisheries records the scattalds covered approximately 86 percent of the Shetland landscape (AF39 23/1-4).

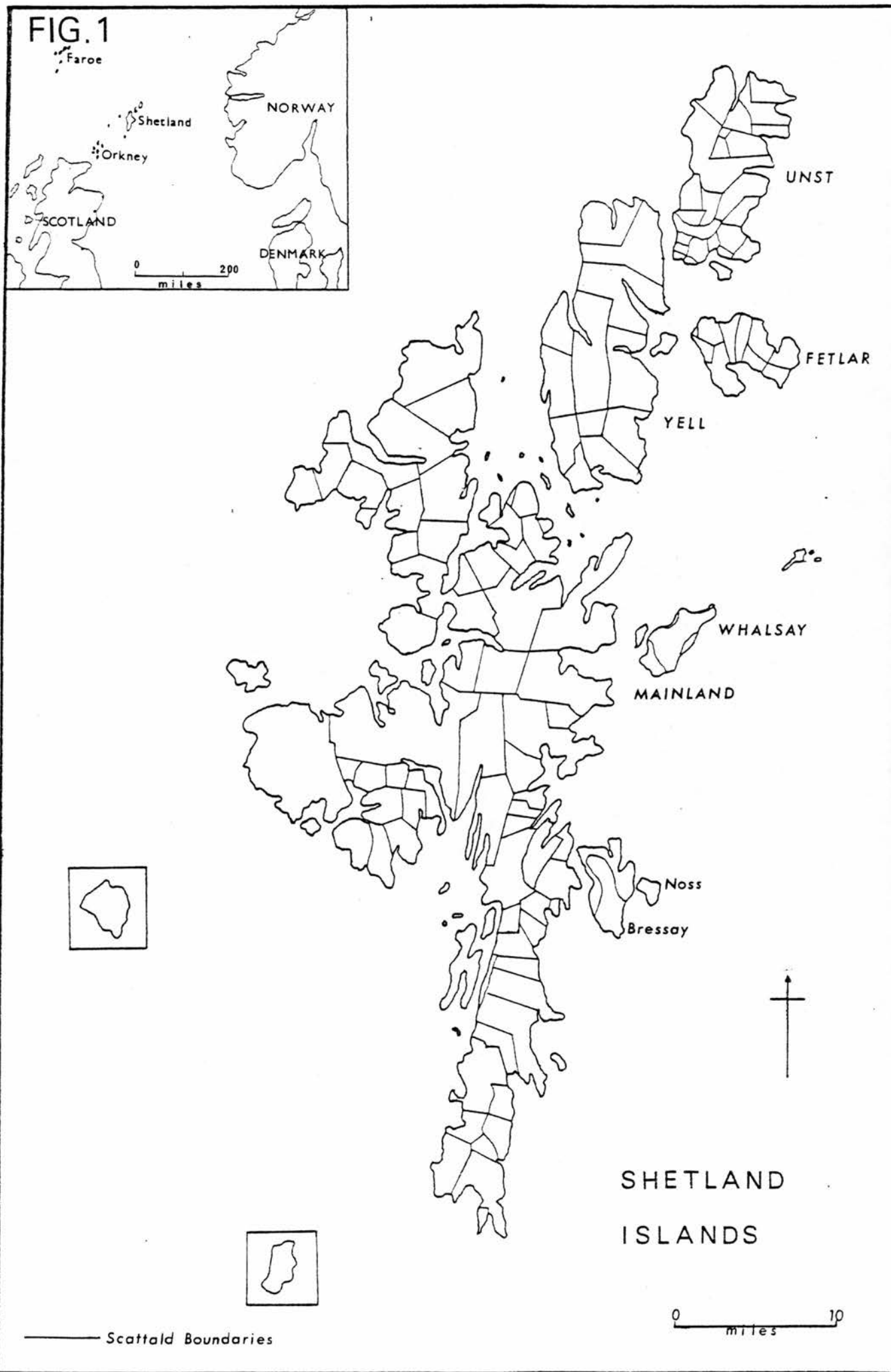
the ultimate aim of these proprietors was to establish private property.

To adequately explain this process it is necessary to sort out the legal divisions of the scattalds before a convincing, detailed analysis of the evolution of agricultural change can be accomplished. Therefore, the focus of this thesis is on the legal clarification of land proprietorship through the application of the Act of Division of Commonalty, 1695 to the scattalds of Shetland. The study area -- the county of Zetland -- proved particularly well suited to this kind of investigation not only because it is large enough and sufficiently isolated to be considered by itself (Fig. 1), but also because it was possible to locate a considerable range of primary sources (see Ch. 3).

Because spellings vary greatly between one source and another all quotes are given as in the original unless clarification of meaning is necessary. To avoid confusion all vernacular words, for example town, room, etc. and all legal terms are used in the thesis as they were used in the nineteenth century documents. These are explained in Appendix B and C respectively.

The thesis is divided into three parts. Various aspects of the process of division are discussed within Part II. However, before the clarification of land proprietorship is examined it is first necessary to describe the pre-improvement landscape of Shetland in order to understand the existing agricultural system on the eve of scattald divisions. Chapter one describes the Shetland way of life during the late eighteenth century while chapter two deals specifically with the commonalty and the scattald and the role that each played in the lives of the inhabitants of Scotland and Shetland respectively. In each case the common grazings were the essential facet of the prevailing subsistence economy. The chapter also introduces the Act of 1695 and discusses how it influenced Shetlanders to reassess their outmoded land

FIG. 1



use system. This act permitted but did not require division to occur. A literature review outlining the limitations of each source follows in chapter three. Concluding Part I is a description of the process used to establish a base map of the scattald boundaries. This map was produced by using various sources such as the Register House Plans, Court of Session and Sheriff Court processes, private estate papers, contemporary literature and personal observations, and it represents the pre-division landscape of Shetland and its pattern of use.

Part II is primarily concerned with the process of division (both informal and formal), the reasons for the divisions, and the persons involved. Increasing population and expanding trade opportunities altered the lairds' attitudes toward land and the private allocation of the common lands began to take place. Initially, the scattald was reorganized informally through an extrajudicial process of allocating the scattald among the proprietors with rights to the hill. This process was both convenient and inexpensive. Divisions on an informal level had been going on for some time in both Scotland and Shetland prior to the implementation of the 1695 Act even though the Act provided a more reliable vehicle for resolving land proprietorship. However, the common utilization of the scattald increasingly resulted in the overuse and misuse of the hill land. As time progressed, legal action in the courts (Sheriff Court or Court of Session) was viewed by the lairds as essential for dealing with the increasing frequency of cases involving land disputes. This in turn necessitated the hiring of professional men -- the surveyor and the valuator(s). The final chapter of Part II analyzes the development and nature of these two distinct professions in Shetland and their influence on the economic and geographic changes occurring on the Islands.

There were two stages in the transition from multiple to private

proprietorship of the scattalds: first, the legal division of the scattald and second, its physical division. Although the focus of this thesis is on the process of scattald division in isolation and the resulting institutional change in land proprietorship, divisions represented only one aspect of the changes taking place in agriculture during the nineteenth century in Shetland. Part III attempts to outline some of the main features of agricultural change that occurred simultaneously with or often followed divisions. These included: shifts in both the livestock and crop balances generally attributed to the change from subsistence to stock-oriented agriculture; physical manifestations on the land such as enclosing, draining, fertilizing and rotation; the depopulation trend which resulted from evictions and emigration; and finally, the passing of the Crofters' Holdings (Scotland) Act in 1886 which established the tenants' civil rights. The final chapters of the thesis are primarily concerned with these major changes in the agrarian landscape and why they occurred.

PART I

CHAPTER 1

THE SHETLAND LANDSCAPE IN THE LATE EIGHTEENTH CENTURY

The Shetland landscape basically consisted of two forms of land use: the arable land inside the town dykes (township) and the open scattald or hill beyond. Tudor (1883) aptly described the Shetland scenery thus:

"Scattered here and there along the coast-line, and along the sides of the valleys, will be found collections of cottages surrounded by patches of arable land, the whole fenced in by rude stone dykes from the scathold or hill-pasture outside" (Tudor, 1883, 148).

Some idea of the extent and importance of the hill land may be obtained from the ratio of inbye to outbye land; this ratio was approximately 1:20 for Shetland in the nineteenth century¹ (AF36 23/1-4).

"To the native farmer the hill or scattald was as necessary on the one hand as is the sea on the other; and to deprive him of its use is as nearly tantamount to the extinction of his means of subsistence as the loss of the freedom of the sea would be" (Goudie, 1904, 296).

Each crofter had unlimited rights of grazing over the rough hill pasture or scattald which was held in common by several tenants. The lack of regulation of souming meant that the scattalds were almost invariably mismanaged and overstocking generally resulted (Tudor, 1883, 152; McGillivray, 1920, 426; Thomson, 1870, 183). One of the greatest weaknesses of the common grazing was that there could never be any selective breeding, hence livestock tended to be of an inferior quality. Animals wandered the undivided scattalds freely, often encroaching on other proprietors' property (O'Dell, 1939, 53; Adams,

¹According to Darling (1955), nineteenth century Shetland compared favourably with the island of Skye whose ratio is also 1:20, while north-west Scotland has a ratio of 1:90.

1967, 48; OSA, I, 40, 400). However, the scattald played a vital part in the subsistence-type agriculture. It was used to graze livestock and it provided the crofters with the necessities of food, fuel, and building materials as well as with a reserve of land to accommodate an increasing population without any formal restrictions (Adams, 1967, 3, 45, 66).

In addition to the scattald, each tenant held land inside the town dykes. Each township consisted of small farms situated near the coast and enclosed by a hill dyke of turf and stone. Inside the dyke was a mixture of cultivated strips of land and rough pasture organized on a runrig system. This complex system was common in most of Scotland from the Middle Ages until the nineteenth century.¹ This form of land organization suited the use of hand tools or ploughs. The raised ridges or rigs delimited one person's land from another, while the furrows between each rig served as ditches to drain the surface water (Fenton, 1976, 5). However, the runrig system of land organization demanded uniformity of behaviour among the tenants; hence it discouraged and was a great hinderance to improvers. Since the small, arable strips of land were not individually dyked, livestock could graze over the townlands once the town dykes were opened after the harvest. This lack of enclosure made it impossible for enterprising tenants to cultivate new crops. Towards the end of the eighteenth century increasing population pressure on the arable land resulted in furthering the fragmentation and complexity of the system. The proliferation of small crofts within the town dykes eventually led to an increasingly confused ownership pattern.

¹Recent research by Whittington (1970) and Dodgshon (1975) has improved the understanding of runrig and the part that it played in the agricultural system. At a regional level, a study by Thomson (1970) provides detailed local information on runrig.

The organization of settlements allowed a maximum population to be maintained on a minimum amount of land (Fenton, 1976, 26). Crofts were generally very small ranging from one to ten acres of arable with access to hill grazing. Each crofter normally kept two milk cows (which provided him with milk, butter, cheese, meat, tallow and hides), two or three ponies, a few sheep for wool and meat, some pigs and often a few hens and geese. However, the allotments were not sufficient to feed the tenants adequately (Tait 1957; Seim 1964). In good years the crofts were barely large enough to supply tenants with the necessities of meal, potatoes and cabbage. During the latter half of the eighteenth century this situation was accentuated by the fragmentation of settlements. As a result, agriculture became a part-time occupation with the majority of Shetland men working as both fishermen and farmers.

Dearth, Diet, and Disease

Dearth

Prior to the nineteenth century, years of dearth were endemic in Shetland. Terms such as famine and dearth were used interchangeably and although they did not necessarily cause death, "...there can be little doubt that it laid the foundation of diseases from which the sufferers never recovered" (Edmondston, 1809, II, 138). Severe climatic conditions during the latter half of the eighteenth century led to crop failures, stock mortality and a slump in the fishing. As a result Shetlanders suffered food shortages and near famine (Smith, 1972, 130, 146). "In the sixty-eight years between 1756-1824 only five seasons can be described as "good" from the evidence about harvests and fishings" (Wills, 1975, 419; Fig. 2). The weather in the 1780s was especially severe and dearth-stricken Scotland joined

Shetland in a competition for available food supplies (Smout, 1969, 251). During the winter of 1784-85 the parish of Delting alone lost 4,506 sheep and 427 cattle (OSA, I, 40, 393; Pearson, 1973, 195-201; Fenton, 1978, 446). Between 1791-1801 stock again declined in numbers. This seemed to be the result of an oscillating cycle on the scattalds of overstocking followed by catastrophe (Wheeler, 1964, 17). Since the scattalds of Shetland lacked stock regulation of any kind the carrying capacity of the hill controlled the number of animals.

From 1777 to 1819 dearth was again a common occurrence. By the turn of the century the situation was further complicated by labour shortages resulting from the increased involvement of Shetland males in the fishing and the navy. Britain was involved in wars almost continuously from 1756 to 1815 and from 1793 to 1815 "...something like one half to one third of the adult male population (of Shetland) had served at one time or another in the navy and that between 1803 and 1808 possibly a third were at sea in any one year..." (Wills, 1975, 436). An increase in ley land and a decrease in agricultural production were the result of these labour shortages. The years from 1801 to 1805 were again years of scarcity for Shetland. Pointed references to the failure of crops to supply the dietary needs of the people for the whole year were common.

Diet

During the years when harvests were successful the Shetlanders ate a relatively well-balanced diet and it was said that they "...eat more animal food than perhaps any others of their rank in Europe ..." (Low (1774) 1879, 90). Fresh or salted meat was common prior to the cultivation of root and fodder crops which allowed more animals to winter over, hence providing fresh meat year round. However, fish "...was the mainstay of the people, filling the hungry

gap before the harvest in the days before potato, when dried fish beaten small had to be used instead of bread" (Brand, 1701, 135). Nevertheless, oats and bere as well as potatoes and kail were also a very important part of the diet (Fig. 2).

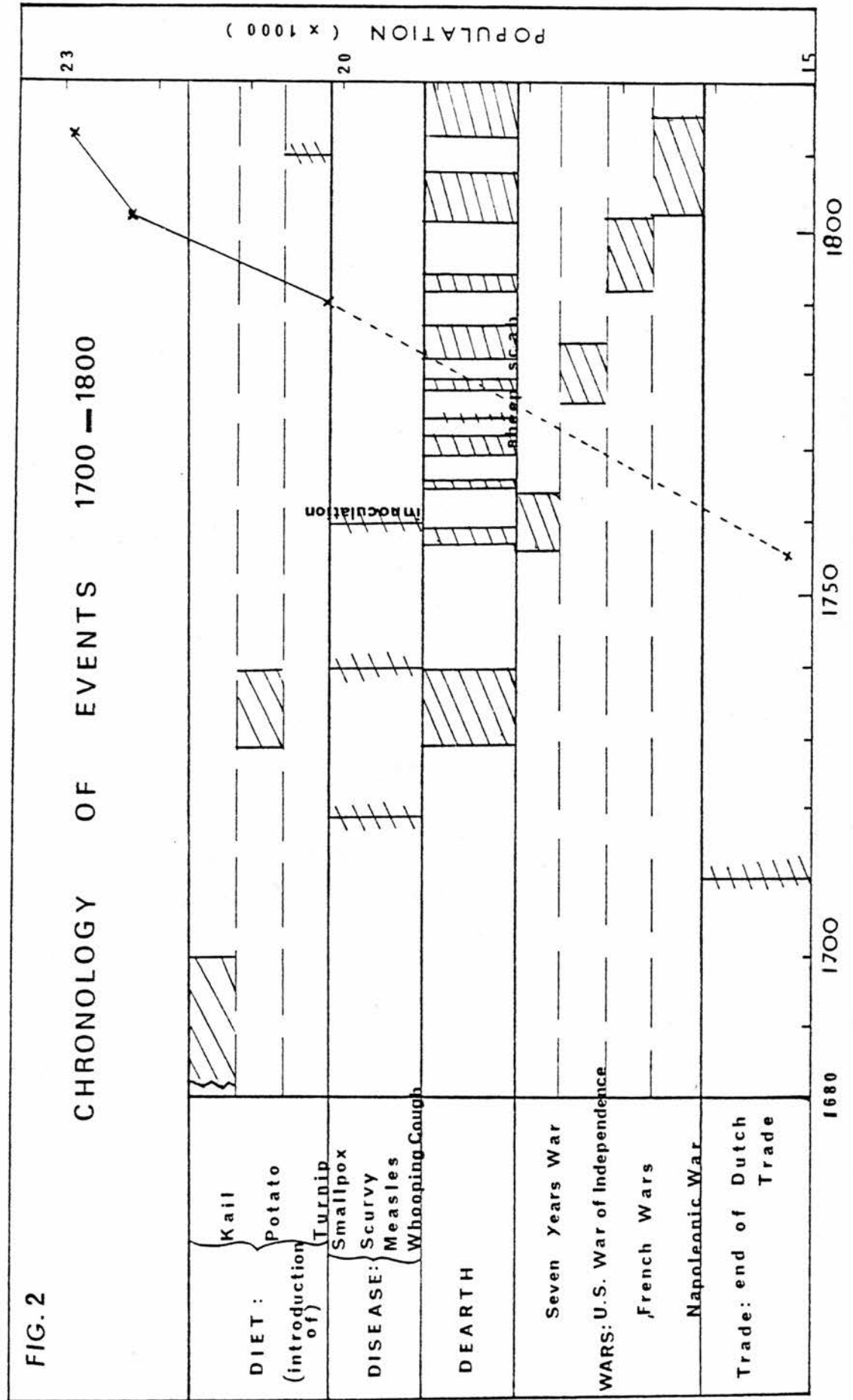
Smout (1976) suggests that Shetlanders were reasonably well fed and indeed, better fed than most persons in northern Scotland at that time.¹ This opinion is supported by the following entry in the Statistical Account:

"Though their crops, with the strictest economy, cannot maintain their families above seven or eight months in the year, yet, by the natural advantages they enjoy, I may venture to affirm, that they live fully as well, and many more comfortably than the generality of the peasants in Scotland" (OSA, II, 50, 574).

While the Scots existed mainly on oatmeal, potatoes and some fish, the Shetland diet was more varied and included barley and oats, potatoes, fish and cabbage plus the occasional meat and fowl.

Unfortunately, harvests were not always good and "...it was considered a favourable year indeed when the produce of the harvest enabled the people to subsist until the next year's seed was put into the ground" (NSA, XV, 91; also Edmondston, 1809, II, 144; Tait 1957; Seim 1964). In good seasons parishes such as Tingwall, Dunrossness and Sandness were capable of producing not only enough bere and oats to satisfy their own needs but they could also afford some assistance to other parishes (OSA, XX, 4, 106; VII, 39, 393). Also, there were those parishes which in good years produced grain sufficient for the consumption of the inhabitants (OSA, X, 14, 197). The crops of Aithsting, for example, could maintain the inhabitants "...with the

¹Smout T.C. Lecture to Final year Human Geography Students, Nov. 1976, Geography Department, University of Edinburgh.



help of milk and fish and potatoes and cabbage" for the whole year (OSA, VII, 53, 587). However, other parishes such as Northmavine, Delting, Yell, and Fetlar could only supply themselves seven to ten months of the year at best (OSA, I, 40, 395; XII, 27, 354). Therefore, on the whole it was a constant struggle for Shetlanders to feed themselves.

"...all effort to cultivate the land in an advanced or approved manner is soon abandoned, and the pressure on the bare necessities of life becomes painfully real" (Malcolm, 1883, 43).

Disease

Dietary deficiencies were often the cause of common afflictions such as rheumatism, fevers, consumption, and leprosy or "inveterate scurvy" (OSA, XIII, 19; XII, 27; XX, 4). In Shetland, diseases that developed as a result of dietary deficiencies were primarily due to the lack of food rather than to the types of food available. When the weather was fair and the harvests were good, Shetlanders ate a relatively balanced, healthy diet. However, during the eighteenth century the islands were assailed by many years of food shortages resulting from crop failures followed by stock mortality. If these coincided with a poor fishing season, starvation faced the inhabitants. During these years of dearth dietary deficiency diseases were common. The Statistical Account blamed the incidences of scurvy on the fact that "...the people live much on fish and flesh and use very little vegetable food" (OSA, I, 40, 386). This was the case during the first half of the eighteenth century, but by the latter half Shetlanders were eating both potatoes and cabbages and Low (1774) was able to write that few instances of common diseases such as scurvy had been observed for several years. Fresh vegetables, when added to the diet provided Vitamin C which in turn reduced the threat of scurvy

(Smout, 1969, 251-52). Times were changing and by the 1790s it was reported that epidemical diseases had been reduced in frequency. This was clear evidence that the population was now getting a more consistent and nutritious diet. And as diet improved it coincided with a general upswing of population that began in the latter half of the century (Smout, 1969, 325).

Other diseases such as smallpox, whooping cough and measles were also common. In Shetland smallpox killed substantial numbers of people approximately every twenty years during the eighteenth century. In 1720 it was estimated that the disease killed about one fifth of the total population of the islands (Wills, 1975, 77; Flinn, 1977, 292). As each new epidemic hit, those most susceptible were the children and young people less than twenty years old who had not been alive during the previous epidemic and who therefore lacked a natural immunity to the disease (Low (1774) 1879, 175). Often epidemics of measles and whooping cough coincided with that of smallpox causing great devastation (Fig. 2).

Innoculation was first tried in Shetland in 1761. Often self-taught locals such as "Johnny Notions" Williamson, a blacksmith from Yell, inoculated the populace. (Mr. Williamson was responsible for several thousand inoculations in Shetland.) Landlords encouraged inoculation and often paid for it. By the time the Statistical Account was written, all but one parish in Shetland reported that inoculation was successfully introduced (Flinn, 1977, 291-92). And with the use of inoculation during the latter half of the century the population began to increase (OSA, II, 50; III, 61; VII, 53; XII, 27; XIII, 19; XX, 14).

Crop and fishing failures resulting in food shortages and near famine, often concurrent with or followed by epidemic diseases,

plagued the population of Shetland making existence a struggle. Therefore, the inhabitants of Shetland during the eighteenth century were, on the whole, primarily concerned with sustaining themselves on their subsistence agriculture.

"It must be remembered that the situation of the crofters -- they were totally dependent on the increase of their sowings and the tiny crofts with the minimum of arable ground -- left no margin to experiment when such an experiment might mean starvation in place of mere scarcity" (O'Dell, 1939, 70).

"The Rhythms of Crofting Activities"¹

...years gaed by as aye der geen,
Da winter white, da simmer green;
Da voars aye sawn, da hairsts aye shorn,
Aye someane deid, aye someane born.²

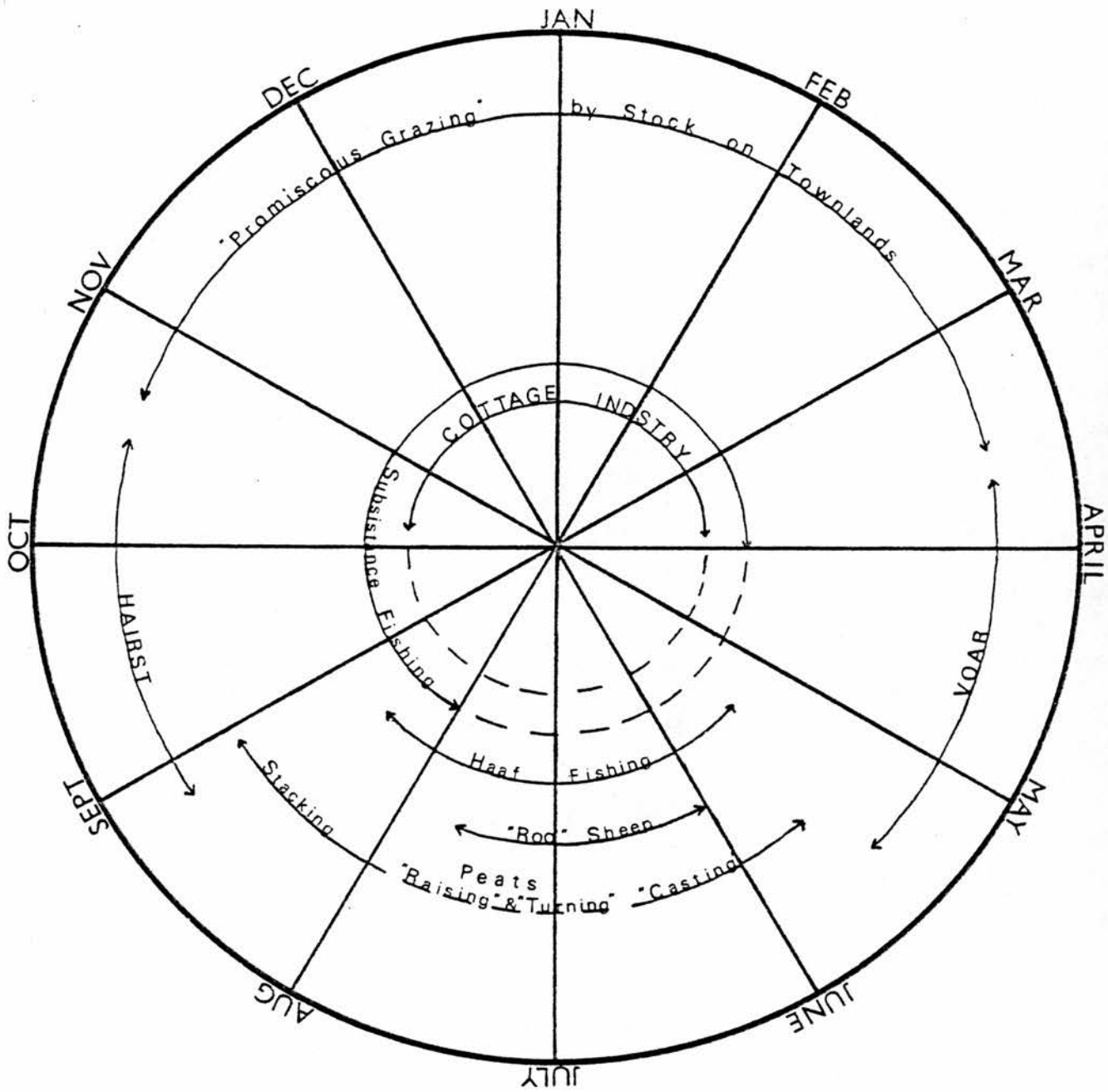
Like Orkney, the population of Shetland was described as "...wedded to old customs, adverse to any improvements..." and this meant that their lifestyle differed very little from year to year even though the system itself was highly seasonal (Barry, 1808, 340; Fig. 3). Spring was a time for delving the land, manuring it with dung and seaweed and planting the staple crops. Due to the scarcity of manure only the infield was fertilized. The major agricultural implement in use at this time was the spade and about 90 percent of the arable land was cultivated with it (OSA; Evershed, 1874, 196; O'Dell, 1939, 59; Fenton, 1978, 298-9). Previously, some ploughs were used. However,

"...with subdivision of holdings brought about by the proprietors' requirements in man-power for hand-line fishing... it was no longer practical for a single crofter to work a plough and maintain the team of four normally required for it" (Fenton, 1962-3, 307; also Tudor, 1883, 150).

¹O'Dell, 1939, 153.

²Basil Ramsay Anderson, quoted in Shetland from old photographs, Shetland, 1978.

FIG.3 THE CROFTING CYCLE



----- Slack Periods

SOURCES :

O'Dell, 1939, 153;

H. Smith, 1972, FIG.2.2;

General Literature .



Plate 1 'Delling' team in voar on
Fair Isle (Cluness 1967).

This change to a labour-intensive method of cultivation from that of a plough is clearly documented in the Statistical Account and other sources. Comments such as, "The farms are now too small, that the people cannot afford to keep ploughs" (OSA, X, 14, 196; also OSA, I, 40, 391); or "In Sandwick and Cunningsburgh, farmers plough chiefly with oxen, and at Dunrossness with horses...but the ground is chiefly laboured with spades of a light kind" (OSA, XII, 39, 393) were common. Even at the time of writing the New Statistical Account recorded that spade husbandry was still the prime method of cultivation (NSA, XV).

Crops were sown early as a remedy against bad harvests. Cabbages which had been planted in the plantie crus the previous July were transplanted into the kail yards near the croft houses. Both plantie cru and kail yard served the Shetlander as vegetable gardens. In mid-April oats and potatoes were planted in the outfield and in May the infield was planted with bere and potatoes (OSA, VII, 53, 586). Crop rotation was rarely practised (CH. 13). In 1750 potatoes, along with turnips, cabbages, and occasionally carrots, parsnips and artichokes were still considered garden crops but by the end of the century the potato had become an important field crop (Fenton, 1978, 421; Flinn, 1977, 423).

Peat for the crofters' hearth was caste or cut from the local scattald in May as part of the seasonal work. First, the turf overlying the peat bank was removed with the use of a ripper and a spade. And finally, the peats were cut with a tusker/tushkar or peat spade.¹ The peats were raised or set on their ends with five

¹Tusker comes from the Norse torfskeri (torf = peat, skera/skeri = to shear). See Fenton, 1970, 170-78 for the history, use and variations of the ripper, spade and tusker in Shetland; Skardi, 1970, 67-72 for a comparison with the Faroese torvskeri; and Borchgrevink, 1970, 211-20 for a comparison with west Norway.



Plate 2 (Left to right) Spade, Tushkar, Ripper (Tingwall Agricultural Museum)



Plate 3 Casting peats with a tushkar (Nicolson, 1972, 140).



Plate 4 Raised peats drying near the peat bank.



Plate 5 Shetland pony used to carry cassies/kishies filled with peats (Nicolson, 1972, 140).

or six leaning against each other for balance. Here they remained drying until August when they were taken home and stacked by the house for use during the winter.

May also marked the beginning of the haaf or deep sea fishing season. Usually the haaf stations were located on points of land as close to the fishing grounds as possible, such as Stenness Beach, Eshaness. By their very nature they were isolated from the agricultural hamlets and since most of the men were fishermen, this meant that they were away at the fishing station for most of the haaf season which coincided with the summer months of agricultural work. As a result most of the croft work was done by the women and children (OSA, I, 40, 394; Goodlad, 1971, 110). In June the sheep were caaed on the scattald and driven down to the cru. Here the wool was carefully plucked or rooed from the sheep. Later, it would be carded and spun, ready for knitting hosiery through the long winter months.

By August the fishermen were ready to begin nearshore or subsistence fishing. Haddock, piltocks, and sillocks were caught and wind dried. Later these fish served as a supplement and sometimes as the mainstay of their winter diet.

Prior to the introduction to rye and sown grasses a mixture of wild grasses in the meadow or bog was cut in July and August and this, along with straw from the oats and bere was used as the main source of winter fodder (see Ch. 12). By spring this supply of fodder had run out and the animals fed on seaweed -- a natural source of fodder. Harvesting, like all other aspects of the Shetland cycle of activities was slow and tedious, demanding a great amount of human labour. Often poor weather would retard the progress of the harvest. Nevertheless, old customs took precedence over economic necessity and harvesting came to a halt on the sabbath. Lambs were



Plate 6 Haaf fishing station at Stenness Beach, Eshaness in the 1880s (Cluness 1967).



Plate 7 'Rooin' sheep at the North
Cunningsburgh sheep pund



Plate 8 At the sheep pund after 'caaing' sheep on
the North Cunningsburgh scattald.

brought into the "lamie hoose" by October. The corn (or grain) was cut and ground at the small, communal water mills that dotted the streams. And finally, the potatoes were "lifted" and stored in the byre along with the turnips. Once all the crops were in the hill gates were opened and the stock which had been grazing all summer on the scattald, was allowed to scavenge on the fields for any stubble or stray vegetables left behind.

The peats which had been caste on the scattald in the early summer and left to dry there were transported down the hill in kishies on the backs of ponies and crofters and stacked against the croft houses for winter use. Tudor (1883) made reference to the industrious women of Shetland who knitted while they worked.

"All have their kyshies (cassies) of peats on their backs, and all, as they bend forward with the stooping gait peculiar to those carrying burdens, are knit, knit, knitting. A Shetland woman, if you put the needles in her hands, could probably do a very good stroke of work in her sleep" (Tudor, 1883, 470).

Chimneys were rare in the eighteenth century croft houses. Openings in the roof let out the smoke from the peat fire in the centre of the floor and let light in. A window covered with a bladder or untanned sheepskin also provided a minimum amount of light. The croft house itself was a very simple structure (Smith 1964; Tait 1951). All the building materials used to construct the house were obtained from the general locality while the construction of the house required only vernacular skills (Walker, 1979, 45-60). Often the barn, byre, and house were built in a line with doors connecting them and sometimes the barn had a kiln attached to it for drying grain. It was a Norse tradition that man live close to his animals. All three buildings were built of rough stone with a lime or clay



Plate 9 Horizontal water-mill (Croft
House Museum, Troswick, Dunrossness)



Plate 10 Thatched house with attached byre (Croft
House Museum, Troswick, Dunrossness)

mixture serving as a mortar. The roof was covered in turf and divots followed by a layer of straw thatch which was roped down with straw or heather ropes. Inside, the majority of the houses were partially divided into two rooms by box beds. The smaller of these was called the ben. Here, guests were entertained. This room also served as the master bedroom. The but end was the "...kitchen, mess room, and general dormitory of the family..." (Fenton, 1978, 163). Throughout, the floors consisted of hardened earth. The furniture included a few wooden chairs, a table and chests which held belongings as well as food. By modern standards these cottages were primitive but they were far more comfortable than the "black-houses" of the Herbrides and the Highlands.

The long winter months were a time of intense cottage industry activities. Also all household and fishing gear was mended during these months in readiness for the coming year. And once again the seasonal pattern repeated itself with little variation. As indicated, the Shetland diurnal crofting activity was highly influenced by seasonal variations in combination with cultural traditions and this produced a lifestyle that was closely aligned with these rhythms. A writer of the Statistical Account summed up the commonly-held views of the future of agrarian improvements in Shetland with great foresight.

"That great improvements might be made in their mode of farming is not to be doubted; but it may be a question is the country capable of yielding an increase sufficient for their support. It seems better adapted for pasture, and carrying on the fishing" (OSA, XII, 27, 354).

The marginality of agriculture in Shetland required the greatest care to produce sufficient yields to sustain the population. This made it an uneasy companion for the haaf fishing and the sol-

ution of creating a crofter-fishermen society was less successful than at first may have seemed possible. All too often the farm had to be neglected for the sea and it was the arable cultivation which suffered more than the pastoral. Ironically, it might have been in the landowners' best interest to cede more of the ground to sheep walks to free more of the men for fishing.

Eighteenth Century Trade and Fishing

"...the economy of Shetland in the eighteenth century -- although precarious for tenant and minor laird alike -- was quite diverse and highly organized...its geographical position gave rise to unique arrangements for the exchange of goods and even in 1700 the Shetland economy was very closely integrated with the trade of northwest Europe and Great Britain..." (Wills, 1975, 256).

Contact with North America was via the Greenland whaling ships that stopped off in Shetland on their way west, while within Britain, Shetland carried on a particularly active trade with the neighbouring islands of Orkney (Willcock, 1897, 106 quoting Mill's Diary, 12 Aug. 1774; Brand, 1701, 110-11). The men of importance in Shetland society during the eighteenth century were the merchant lairds (Smith 1972). For them the business of landowning became integrated with that of trade.¹ Not only were these landowners merchants, but they were also fish curers and bankers for Shetland society (Livingstone, 1947, 47). This small group of powerful individuals virtually controlled life in the islands and during the eighteenth century the fishing trade was their primary concern. They focused

¹In 1811 William Mouat (heir to the Garth estate) visited Thomas Leisk to take notes on the method of conducting a merchant laird business (NRA (Scot) 0450/1962 Minutes 23 Aug. 1811). These notes virtually represent a do-it-yourself guide to becoming a merchant laird.

their attention on the bounties of the sea and the advancement of the fishing industry while the agricultural sector was neglected. Landowners perceived the economic value of land primarily in light of its proximity to fishing grounds rather than for the productive value of the land (Goodlad, 1971, 99; Henderson, 1969, 13). Therefore, except for the occasional burst of improvement agriculture remained a subsistence occupation and lagged behind while the fisheries flourished (Smith, 1972, Ch. 4, 5).

In 1775 James Fea used the term "Zetland Method" to refer to the system of land tenure based on a fishing tenure or debt bondage system in which the merchant lairds of the eighteenth century had entrenched themselves. Under this scheme the tenants' obligation to fish was explicit and the lairds' price control was absolute (Wills, 1975, 98; GD144/43 Bond...1815; D6/292/24 Notes...16 Sept. 1869). Tenants were encouraged to provide their lairds with fish and if they refused they were simply threatened with eviction (Smith, 1978, 9, 15).

Lairds derived the largest part of their income not from rents but from fishing.

"...the value of the estates in this country is not to be estimated from the rents payable to the landlords. The fishing, which their tenants are obliged to carry on for them, more than doubles it" (OSA, X, 14, 195).

Clearly, fishing was the most important aspect of the economy and consequently the fishing tenure system affected every facet of Shetland life.

Since the fishing tenure system was based on tenant labour, a merchant lairds' wealth was measured by the number of tenants he controlled; the more tenants on his estate, the more potential fishermen he had to fish for him. Therefore, the expansion of trade

depended on the enlargement of the labour force and as a result, the lairds actively encouraged population growth (OSA, NSA). Both early marriages and croft subdivision were permitted by many lairds in an effort to increase the numbers of able-bodied fishermen (Tudor, 1883, 130-31). The Statistical Account stressed that "The young are encouraged to marry, without having any stock. The consequence is poverty and distress..." (OSA, I, 40, 395; also XX, 4, 106, 115). The commonly-held belief that the landowners were encouraging early marriages and large families to increase their labour supply and hence their numbers of fishermen seemed to be substantiated by a discrepancy in family size between the fishing and the agricultural communities.¹ During the eighteenth century the average number of people per family varied from five to seven with six being the most common. Within this range the important fishing areas (such as Delting, Northmavine, Unst and Walls) recorded having the larger families of between six and seven persons, while the more agriculturally-oriented area of Tingwall had, on average, smaller families of between four and five persons (OSA, I, 4, 395; XII, 27, 355; V, 12; XX, 4, 105; XX, 14).

To make room for more fishermen the landowners promoted farm subdivision and when the townlands could no longer be subdivided the lairds gave their permission for the tenants to enclose parts of the rough grazing land (see Ch. 5 below). Contemporary literature records that both of these methods were employed during the

¹Fenton (1978) cited the average density per house as being 6.6 for Shetland and 5.5 for Orkney:

"The Shetland density no doubt paralleled that of Orkney in earlier times, but by the late eighteenth century the population increase was well established. Many of the houses contained two sets of children, that is a father and his family and the eldest son and his family" (Fenton, 1978, 158).

eighteenth and nineteenth centuries. Fea (1775) presents the earliest published account of the process of farm fragmentation which, according to O'Dell (1939) had been going on since 1712. This phenomenon seemed to be due in part to the increase in population which began in the latter half of the eighteenth century. Over the century the inhabitants' health had improved primarily as a result of a better and more varied diet but also because of medical improvements (see pp. 10-16 above). Apart from the natural growth of population, local variations in overcrowding were being set up by migration (Smith, 1972, Ch. 4; Flinn, 1977, 426). In Shetland's case, the development of the fisheries attracted people to the coastal areas. Lairds employed tenants in the ling fishery and it had,

"...become an object to have as many men as possible on their grounds. This circumstance has induced them to split the farms, and make them so small that there are now, in many instances, four families on a farm which was possessed twenty or thirty years ago by one" (OSA, VI, 40, 395).

Many references were made in the Statistical Account and the New Statistical Account to the minuteness of farms (OSA, V, 12, 192; VII, 53, 585, 593; X, 14, 196, 199; XII, 27, 355; XIII, 19, 289; NSA, XV, 13, 92, 117). As a result tenants were unable to support their families from agriculture alone and they were forced to fish to supplement both their diet and their income (Smith, 1978, 11).

However, although it appeared that the lairds were deliberately subdividing farms to accommodate tenants and "breed" fishermen, Wills' study (1975) indicated that this process was not evident from the primary sources available, except occasionally after 1772. Therefore, either this process was in operation only after 1772 or the data is too fragmented. If subdivision was occurring as the Statisti-

cal Account indicates, it might be expected that the number of farm names would significantly increase over time. This is not the case. If a comparison is made between the "Cess Rental of Zetland, 1757" for Unst (D8/199) and a "List of Proprietors and Merk Lands... Unst... 1825" (Garth), the farm names appear to be almost identical. It is possible, therefore, that the arable lands were not being physically subdivided, but were simply accommodating more people (see above). An article by Thomson (1970) seems to support this idea. In it the author noted that, "...with rapidly increasing population in the late eighteenth and early nineteenth centuries, and the proprietors' preoccupation with fishing, the increased subdivision of holdings was common. Runrig agriculture made the absorption of increasing population easy" because to accommodate an extra tenant, the whole was merely redivided (Thomson, 1970, 180). Under such circumstances it is quite possible that new farm names were not created.

In 1772 Sir Laurence Dundas's factor wrote a valuable account of what life was like in Shetland both before the advent of fishing tenures and during fishing tenures. Of the rural economy of Shetland prior to fishing tenures he wrote,

"Formerly, a tenant who possessed 16 or 18 merks of land had besides 12 or 18 milch cows, 8 or 10 oxen worth 35/- to 50/- sterling each. They were necessary to plow his land, their dung contributed much to improve it, when old their skins furnished shoes, and the beef either meat to his family or money to pay his rent. In time of scarcity or famine, which obliged him to contract death, these [cows], with the sheep a more extensive common enabled him to keep, there a fund of credite, and by the product of his sheep and cattle he could discharge his debts in a short time, so that his misfortunes only stimulated his industry."

Then came fishing tenures and the splitting of farms:

"When this [tenant's] farm came to be parcelled out into three or four possessions, a fisherman who could buy a sixth share of an old boat and furnish perhaps a hired cow or two, with blankets to his bed and a pot to cook his victuals, had a competent stock to begin upon. He needed no oxen, for he and his wife could, with the assistance of a child or two...delve their possession (see Fenton, 1978, 298-99 for the virtual disappearance of the plough contemporary with fishing tenures). If by unsuccessful fishing or bad crops he contracted debt it was nothing to him, for he had nothing to lose. If he was an able man, and could pull his oar, he knew [that] the value set upon him by the heritor... would induce him to supply his wants rather than want his fishing. And thus it became common for men who never had £100 Scots of stock to be 2 or £300, often more, in debt to their landlords, and to continue so all their lives" (MSS Rental of the Lordship of Shetland, Messrs. Hay and Co., Lerwick).

Controversy over the fishing tenure system known as the Zetland Method which allegedly oppressed the tenants came both from within and without the isles. Shetland parish ministers and local merchants wrote critically of the Shetland social structure while from the south came criticism from authors such as George Low (see Wills, 1975, Ch. 3 for a comprehensive list of critics). To these, Thomas Mouat wrote rebuttals in 1785 and again in 1802 (Garth - "Observations... 10 Mar. 1785"; "A Letter by the Landholders of Shetland" 1802). The first attempt at improving the system came from Lord Dundas who through his chamberlain, set out to abolish fishing tenures on his estate and in the late 1770s John Bruce of Sumburgh followed suit (D8/102/1 Bruce to Dundas 21 Aug. 1779). Towards the end of the century other landowners allowed their tenants to fish for anyone they wished. However, by the end of the eighteenth century a combination of poor harvests and years of poor fish catches, a drastic drop in the price of fish on the Mediterranean market and a shortage

of labour for the fisheries resulting from the wars and the attraction of the whaling industry put an end to the practice and eventually led to the downfall of the merchant lairds (OSA, I, 40, 393; Kemp, 1800, 26; Edmondston, 1809, II, 138, 144; Shirreff, 1814, 25; Edmondston, 1841, 161; Smith, 1972, 112, 130-31, 146; Wills, 1975, 419, 426, 436). Although "The 'Zetland Method' had glaring defects, but at least it bound the orders of society with bonds of mutual obligation which provided a bare minimum of security for even the poorest tenants" (Wills, 1975, 142). Therefore, both lairds and tenants opted for the fishing tenure system during the difficult times at the end of the eighteenth and the beginning of the nineteenth century (NRA (Scot) 0450/1696 Hunter to Mouat 2 Mar. 1804).

The interconnections and commitments between fishing and agriculture eventually led to the lack of advancement in both. Therefore, the merchants began to recognize the advantages of separating fishing enterprises from those of landholding and agriculture and as a result by the end of the eighteenth century it was possible to identify two distinct groups in Shetland society -- the merchants and the landowners (see Smith, 1972, Ch. 5 for a detailed description of the process). Although both dabbled in trading and land, the former was left primarily to the merchants and the latter to the landowners. Therefore, it was the landowners of the nineteenth century who were instrumental in initiating the agricultural changes in Shetland which followed.

As early as 1815 some of the landowners were conscious of the potential advantages to be gained by the division of the scattalds (NRS (Scot) 0450/2253). However, after 1820 agriculture became overshadowed by the zeal attached to the cod and herring industry. Then the disastrous years of the 1830s and 1840s came which substan-

tially changed Shetland's economy. The 1830s brought a slump in the cod and ling industries the effect of which was intensified by harvest failures during the following years (Goodlad, 1971, Ch. 5, 6; Smith, 1972, Ch. 5). The herring fishing failed in 1840 which was followed by the collapse of the merchant house of Hay and Ogilvy in 1842. Shetland's foreign trade was paralyzed as a result since the company had monopolized the Islands' trade. Poor harvests occurred again in the 1840s to such an extent that the British government was forced to supply meal to alleviate starvation (see Ch. 10). This combination of agricultural distress and depression in the fisheries, complicated by an increasing population compelled the landowners to look to the land as perhaps an alternative source of income, the reorganization of which might mitigate the occurrence of poor harvests and increase land use efficiency. From the numbers of divisions occurring by mid-century it would seem that interest in agriculture had resurfaced.

As this chapter has emphasized eighteenth century Shetland represented a very conservative society with strong local traditions and culture, and few economic changes had materialized to dislodge these. The agricultural improvements that were taking place in Scotland during the latter half of the century had little impact on these remote fishing and farming communities whose economy continued to operate at a subsistence level. However, during the late eighteenth century, all of Europe was on the threshold of a new age and Shetland was no exception.

Scientific attitudes were applied to agriculture to change it from a subsistence to a commercial level, thus releasing large numbers of the population from agricultural employment. This in turn assisted in initiating the migration to the cities and the development of

urban areas. Aspirations changed and the search for wealth in some cases led to a total re-evaluation of assets not least the land.

Scotland was in the forefront of many of these activities and it was inevitable that Shetland would also be affected. Landowners in Shetland found that as their aspirations changed they were forced to develop their assets of land and sea. Initially, it was to the sea that they turned as Smith (1972) has ably shown; though later land also began to be viewed as a valuable asset.¹ It was inevitable that the old farming practices could not survive and neither could the traditional use of the scattalds, and therefore it was only a matter of time before the lairds re-evaluated the status of the area of land which encompassed such a vast amount of the landscape of Shetland.

¹For recent research relating to the economic and social history and geography of Shetland see:
 Goodlad C.A. 1971 Shetland Fishing Saga. Lerwick. Chs. 4-6;
 Smith H. 1972 "The Historical Geography of Trade in the Shetland Islands, 1550-1914." Unpubl. Ph. D. thesis, University of Aberdeen. Chs. 4-6; Wills J. 1975 "of Laird and Tenant". Unpubl. Ph.D. thesis, University of Edinburgh, Chs. 3-6.

CHAPTER 2

SCATTALD AND COMMONTY DEFINED

The Shetland word scattald had several connotations but broadly by the nineteenth century it was generally accepted as a regional variant of the Scottish commonty for the purposes of land division. Certainly, although the origins of scattald and commonty differ (the former originating in the Norse Udal Law and the latter from the establishment of the feudal system) by the eighteenth century they had acquired a similarity in meaning and both qualified to be divided by the Act of Division of Commonty, 1695. This was legally established by the first Court of Session division in Shetland in 1826 (Bruce v Grierson - CS44 11/7/1826; also see Ch. 8). In Scotland the word commonty referred to the rough grazing land used by one or more proprietors with rights in proportion to their arable land, though others without arable holdings might also have rights of servitude there. (Rights of Servitude might include the right to cut peats or to graze animals on the hill.) While generally there were two or more proprietors, in certain areas the land was under sole ownership with servitude rights belonging to neighbours. The commonty lay beyond the township or head dyke and was used primarily for grazing but also for food, fuel and building materials (reference can be made to Bell, 1826, 252-3 for the legal definition of commonty).

In Shetland prior to the eighteenth century the term scattald had referred to a whole neighbourhood area which included both hagi/hoga land or upland pasture and one or several townships/towns consisting of the arable land lying within the hill dykes (Fenton, 1978, 41; personal communication-Shetland Archivist, 1977). Generally, the scattald took its name from the largest township having rights

to the hill land, although occasionally no Norse farm of that name remained.¹ This was the case in Norwick, Burrafirth and Haroldswick for example. All of Shetland was divided into scattalds and according to the local archivist, Brian Smith, approximately 150 of these existed in earlier times (Smith, 1977, 9). Some of Shetland's twelve parishes included several scattalds of varying sizes while others consisted of one or two of considerable size. By the beginning of the eighteenth century the original meaning of scattald had changed and as the following quote substantiates the term no longer referred to both hill pasture and arable townlands but rather applied only for the former (Fig. 4a). In 1786 the merchant-laird, Thomas Gifford wrote, "The scattald is the pasture ground belonging to the arable land adjacent thereto, called a room or town..." (Gifford, 1879, reprinted 1976, 62; my emphasis). Thus the scattald assumed a comparable meaning in law to that of the Scottish commonalty. Each township or group of townships possessed a delimited scattald identified either by natural landmarks, such as hill tops or burns, or artificial march stones deliberately erected by the owners of each scattald (Fig. 4b). During the nineteenth century it may be said that although arbitrary changes of classification were taking place Shetland possessed approximately 127 scattalds in total. These however ranged from only a few to several thousand acres. For example, South Hill scattald, Dunrossness (No. 125 on Fig. 8, Table 1) consisted of only 126 acres (Bruce v Bruce - CS46 39/8/1888, Box 5012) while Aithsting scattald (No. 96 on Fig. 8, Table 1) covered the northern part of the parish of Sandsting and comprised 16,401 acres (Grierson v Zetland - CS46 28/8/1878).

Scattald Functions

The scattald played an essential and integral part in the

¹In Norse times the scattald usually assumed the name of a neighbouring farm. However, in some cases the original farm of that name no longer existed by the eighteenth century but in its place was a large township possessing the old farm name.

FIG. 4a SCHEMATIC DIAGRAM OF A SCATTALD AND TOWNSHIP

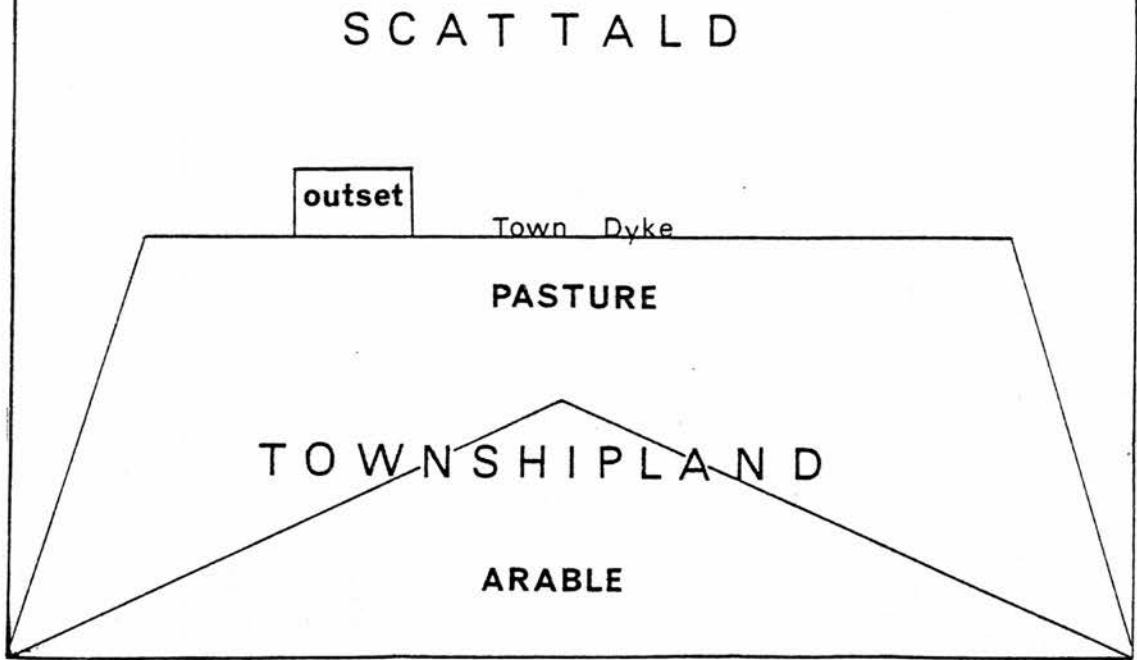
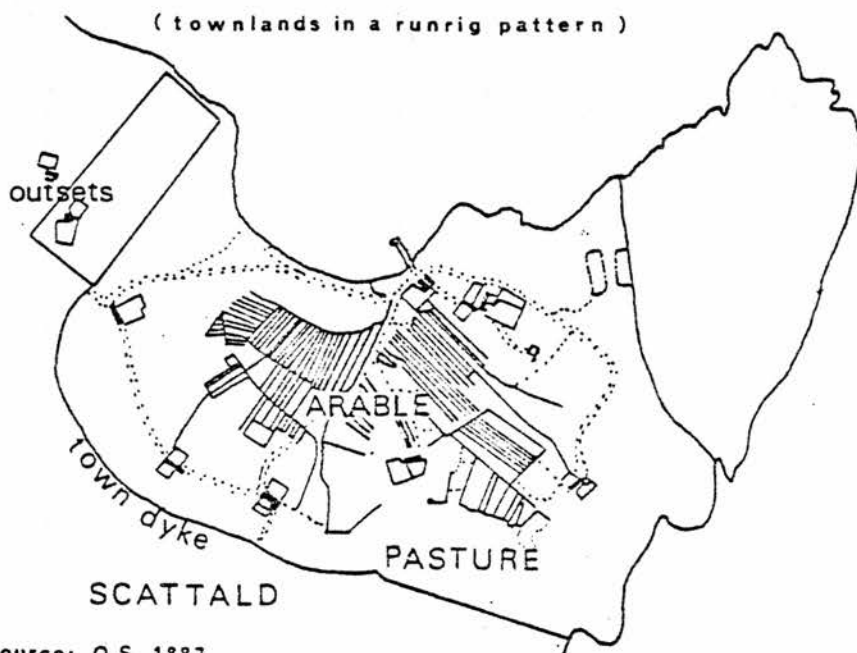


FIG. 4b

A TYPICAL SHETLAND SETTLEMENT —
GOSSABROUGH, SOUTH YELL



Source: O S 1887

Revised 1900

Sheet XXII



Plate 11 Strips of arable land surrounded by pasture
in the township of Leebotten, south Mainland



Plate 12 The township of Tresta, Aithsting in the
foreground with head or town dyke and
scattald beyond.

functioning of the agricultural system in Shetland. The arable townlands and their corresponding scattald or hill pasture complemented each other. The townships or agricultural settlements (which coincided with the more fertile flat coastal areas or river valleys) provided the Shetland tenants with arable land for the cultivation of staple crops, while the common grazing or scattald beyond the head dyke provided them with a place for "...pasturing cattle, sheep, horses and others thereon; by casting peats, feals, divots and ponies and quarrying stones thereon; digging and taking away heather and floss from the solum; riving, fläas and cutting, gathering and carrying away heather and floss from the surface of the scattalds;..." (Gifford v Cameron - CS46 88/7/1869 Summons Brough scattald, Delting, 1862). In the case of the Baliasta scattald division, mining was also included within this relatively standard Court of Session definition of scattald use. It was also understood among the heritors that if necessary the hill land provided an essential reserve of land that could be exploited in response to fluctuations of population.

From witnesses' depositions during the scattald divisions it is evident that grazing was regarded as the main function. Many of the older people related how in their youth they herded the sheep and cattle on the hill and it was such local residents with their intimate knowledge of the old practices who were called upon to give evidence concerning the scattald boundaries. It was noted that sheep were caaed once every eight days or twice a week by the shepherds while "The young cattle are put out in the beginning of May and are not caaed during the season and are not brought home again till harvest is over. They wander indiscriminantly over the scattalds" (Gifford's Trustees v Zetland - CS46 87/5/1876 Minute Book p. 196 - references also made to the herding of sheep, the boundaries they observed as

shepherds, and the common occurrence of poinding - see below). Because of the practice of grazing in common there could never be any form of selective breeding. The outcome was a very poor quality of animals on the hills of Shetland. Similarly, the lack of established boundaries and private property in the hill resulted in the 'promiscuous' straying of animals over the scattald boundaries despite the efforts of the shepherds. As a result references were frequently made to the practice of punding/poinding sheep by the heritors of the abused scattald.¹ In order to retrieve their sheep the owners were forced to pay pund money.

The profusion of intakes of land recorded in the Sheriff Court and Court of Session processes provides evidence that the proprietors and their tenants regarded the more fertile parts of the scattald as a suitable reserve of arable land when population pressure required it. This pressure could arise from either population growth or redistribution. As population began to increase and landowners attempted to expand the number of fishing tenants on their estates, references to the practice of establishing outsets and expanding the townlands are correspondingly widespread in estate documents and legal processes (see Ch. 5). These intakes were very different in land tenure and land use from the older townlands. Because they did not form part of the original merklands, the new enclosures held no legal rights to the scattald. Often segregated from the rest of the arable land, these new farms were not inhibited by the traditional rhythms of the crofting community, the latter involving a complex township system of runrig. In addition because this segregation meant that the

¹ A few mentioned in the Sheriff Court records include:
 SC12/6/119 Petitn. Cameron v. Williamson, 1871; SC12/
 6/145 Petitn. McQuern et al. v trustees for Magnus
 Robertson et al., 1891; SC12/6/125 Halcrow v Mouat, 1878;
 SC12/6/080 Nicolson v Bain, 1831.
 Also D6/292/24 p. 483.

intakes were not part of the runrig system they represented the possibility of agricultural improvement (comment is made to this affect in the NSA, XV, 13 for Bressay). Initially most such enclosures aroused little comment. However, by the mid-nineteenth century economic attitudes towards the hill pasture land had drastically changed for reasons discussed in detail in chapters 10 and 11. This combined with other factors including an expanding population resulted in an attempt by the landowners to protect their rights. The Sheriff Court processes provide evidence of numerous lengthy and bitter controversies that ensued over the legality of such enclosures.

The 'casting of peats, feals, divots and pones', to use the legal jargon from the Court of Session processes was a common occurrence on the scattalds of Shetland. The tedious and laborious work involved in the cutting, stacking, drying and carrying home of the peats from the hill played a natural part in the annual cycles of traditional subsistence agriculture (Ch. 1). A tenant's right to cut peats in the commonty was determined by his landlord. Peat served as a fuel substitute for coal while feals, divots and pones provided the only indigenous building material available on the islands other than stones. In addition, turf was often cut and mixed with dung from the byre and spread on the rigs as fertilizer. The practice of scalping or removing the top layer of turf from the hills to use either as a peat substitute or as a fertilizer was common in areas where the quantity of peat was limited. Eventually this practice reduced the usefulness of the scattalds by initiating erosion and reducing pasturage. As population pressure on the land increased the invaluable peat reserves dwindled or were misused and disputes arose concerning peat allocations on the hill. Later, when scattald divisions got underway certain heritors requested that

the peat moss in their scattald be divided along with the pasture-land and accordingly surveyors were told to allocate specific allotments to each proprietor. The division process for Aithsting carefully outlined the procedure to be followed: "...annually, after their peats are cut, they shall drain off the water from their respective peat banks and replace the sod in a careful manner, so as to leave the banks in a safe and proper state for pasture..." (Grierson v Earl of Zetland - CS46 28/8/1878 Interlocutor Sheet 1874 p. 23). Once the peat was exhausted the ownership of the ground was resumed by the persons within whose allotments they were found.¹ However, if the scattald in question possessed adequate quantities of peat, the reserves were generally left to be worked in common.

On some scattalds the quarrying of building stone, flagstone, copper and iron, chromate iron was important. Granite quarried in Nesting was used in the construction of grand houses such as Symbister on the island of Whalsay. Bressay provided Lerwick with flagstones for paving the streets as well as with building stone. Iron and copper were mined by Mr. Bruce at Sandlodge between 1799 and 1808. On the Scattalds of Baliasta and Haroldswick in Unst chromate iron was quarried and exported. Controversy arose over whether the ore was to be considered common property and in the end the scattald underwent a costly Court of Session process to deal with the question of ownership (Henderson v Cameron - CS46 22/4/1850; also see Ch. 6 below). Limestone was also quarried and lime kilns used in the lime extraction process are still visible, for example, at

¹In addition to Aithsting, the scattalds of North and Wouth Whiteness and Fitful Head had their peats allocated as private property (Gifford v Zetland - CS46 25/3/1875 Joint Minute 1874; Bruce v Grierson - CS44 11/7/1826 Scheme of Division 1825).

Fladdabister, Ukensetter, Girlsta, Weisdale and Wadbister. During the early nineteenth century the lime kiln at Fladdabister was operated by Robert Jamieson who on occasion did business as far away as Mid Yell, although the lime from this quarry and kiln mainly supplied Lerwick, and district (Ployen, 1894 , 60). The limestone in Shetland was chiefly used as mortar in the building industry rather than for agricultural purposes, although improvers such as Hay of Laxfirth did employ lime when improving their arable farms (Fenton, 1978, 54).

In addition to the infrequently used lime, shell marl was also collected and used as a fertilizer (NSA, XV, 65 - Tingwall, White-ness, Weisdale). During the division of Trebister scattald in the parish of Lerwick, shell-sand was mentioned and the suggestion made that its use should remain free and common to the heritors in proportion their respective interests (Greig v Earl of Zetland - CS46 10/9/1859 Summons). Perhaps more widespread was the use of kelp which was "...much used for compost..." (Spence v Earl of Zetland CS46 35/2/1858 Report of Constitution of march marks in the scattald by the surveyor). It was collected in the spring, left to rot or mixed with dung and then spread on the arable lands as fertilizer (Evershed, 1874, 201). The rotting carcasses of whales captured for the oil were also used occasionally for manure by such lairds as Hay of Laxfirth and Bruce of Sumburgh (Fenton, 1978, 549; Tudor, 1883, 415). The rights to one third of the profits gleaned from the capture of whales from the seashore in Shetland represented a further extension of landowners' scattald right. However, in 1889 these rights were questioned and a legal precedent established by Bruce's Hoswick tenants during the Hoswick whale case (D8/344 Bruce v Smith and others 1889; see p. 338 below).



Plate 13 Remains of Lime Kiln at Fladdabister

Besides using sea-ware as manure, it also became important as the kelp industry developed in Shetland. Where it was recognized as a significant part of their income the shareholders of a scattald stated their kelp rights quite specifically, as in the summons for the division of Brough scattald in Delting parish where the "...cutting and gathering [of] tang and seaweed on the shores and manufacturing the same into kelp..." was noted among the important scattald uses (Gifford v Cameron - SC46 88/17/1869 Summons). Although Shetland was not regarded as a major source of kelp in terms of the industry as a whole, certain areas within the archipelago did profit --- if only for a short time --- prior to the collapse of the industry in the 1830s (Clow, A. and Clow, N., vol. 5, no. 4, 1947, 297-316; Wills, 1975, 253-4). The burning of seaweed for the production of potash was first done at Sumburgh in 1769 and in 1780 Mr. Mouat followed suit in Unst. By the end of the eighteenth century the Delting minister, Reverend John Morrison, noted that "...200 to 300 tons annually..." were exported from the whole of Shetland while for the parish of Sandsting and Aithsting Reverend Patrick Barclay recorded that "A considerable quantity of kelp is made in this parish, perhaps from 40 to 50 tons in a year" (OSA, I, 40, 390; OSA, VII, 53, 599). During the first decade of the nineteenth century kelp prices increased as the cheaper Spanish substitute, barilla, was excluded from the market a result of the Iberian blockades during the Napoleonic wars (Wills, 1975, 253-4). The Shetland kelp industry flourished. However, by the time the New Statistical Account was written the minister of Aithsting and Sandsting parish noted that kelp had previously been produced in large quantities but since barilla had been re-introduced into the market the production of kelp in Shetland no longer was profitable (NSA, XV). Although the

industry continued to supplement incomes in Shetland never again did it regain the importance it held during the early nineteenth century.

As previously stated the scattald prior to division was an area of land belonging to several proprietors but in some areas certain servitudes were extended to others. Generally these took the form of a right of pasturage on the common. During the division of a scattald a proprietor possessing rights of servitude produced a Minute presenting his claims for which he expected to receive compensation. One Mr. Umphray of Reawick claimed a right of pasturage over the West Houlland scattald in respect of the cattle he kept and reared on the room of Huckland (Effirth scattald) and he asked the valutors for the division to allot a portion of the scattald to him for this purpose (Zetland v Greig - CS46 90/1/1863 Browland-Report of Valuation of Servitude...West Houlland 1860). Previously, with respect to the same room Mr. Umphray had requested an allotment of land in the scattald of Effirth in accordance with his right of servitude for peats, feals and divots (Umphray v Johnston - CS46 91/1/1863 Report of Valutors 1860; also see D6/114 Petitn. Edmondston v Leslie 1825-6). Other cases that involved a right of pasturage included the Baliasta and the Fitful Head divisions (Henderson v Cameron - CS46 22/4/1850 Joint Minute Aug. 1, 1844; Bruce v Grierson - CS44 11/7/1826 Answ. by Bruce to Minute for Grierson 1825). These rights of servitude held by a few proprietors over some scattalds illustrated another of its uses.

The scattald provided additional functions such as land for drying peats, plantie crus, and horizontal mills that dotted the upland streams providing the power to grind the tenants' domestic supply of corn. In parishes such as Delting and Sandsting fish was

another valuable product of the common and during the division of Collafirth and Swining scattald "...the right of trout fishing in the lochs..." was carefully reserved in common (Gifford's trustees v Zetland - CS46 87/5/1876 Minutes of Procedure p. 393). During the division of Aithsting scattald, two proprietors asked that their salmon rights be reserved. In two other division cases involving Aithsting and Whiteness scattalds the rights of all parties were reserved concerning the caaing of whales (Grierson v Zetland - CS46 28/8/1878 Interlocutor Sheets 1874; Gifford v Zetland - CS46 25/3/1875 Joint Minute 1874).

Prior to division the scattald fulfilled an important role in the tenants' daily life by providing, solely at the expense of their labour, the vital elements of their subsistence economy. However, as land proprietorship changed with the introduction of scattald divisions, the traditional functions of the scattald would be inevitably altered.

CHAPTER 3

LITERATURE SURVEY

An abundance of information is available about many different aspects of life in Shetland and thus it was necessary to choose which of these sources would probably reveal the most data on the subject of scattald divisions. In the search for information libraries and archives, both in Edinburgh and Shetland were consulted in addition to the local court records in Lerwick. Initially, attention was directed particularly toward the vast amount of literature written to highlight Shetland's past. Travellers' accounts, commissions (Truck and Napier) in addition to the wealth of descriptive literature of the period -- notably the Statistical Account, the New Statistical Account, and the Board of Agriculture Reports -- provided a broad survey of the history of the islands. Next, documentary evidence relating to the process of division was examined. Numerous plans, maps, and surveys produced specifically for scattald divisions complemented the legal documents, while private estate collections provided evidence of agricultural improvement and subsequent rural landscape changes.

Although the literature pertinent to the proposed study of the process of division dealt with a vast number of inter-related subjects it may be subsumed under the following headings: Recent Historical Studies; Contemporary Literature; and Contemporary Documents.

Recent Historical Studies

In recent years Shetland has been the focal point of many studies as part of a revival of interest in the history of the archipelago. The trend began in the 1930s with the publication of O'Dell's general, regional study entitled The Historical Geography of Shetland (1939). This introductory study summarized and interpreted the existing infor-

mation on the human and physical geography of the islands by using the more accessible printed sources and it laid the foundations for many of the later studies. Interest in the unique history of the islands continued to develop and in 1947 the first Shetland Folk Book was published. Since then five more Folk Books have been produced by the Shetland Folk Society, a local group interested in Shetland culture.¹

By the late 1960s Shetland was beginning to prosper. After years of depopulation and unemployment the islands experienced an expansion and revitalization of its indigenous industries. "The transformation from the decaying islands of the 1950s and the early 1960s to the vigorous community of the early 1970s was astonishing" (Nicolson, 1972, 215). With this economic revival came a renewed interest in Shetland literature. One of the early books written to popularize Shetland's history was The Shetland Book (1967). Its purpose was to provide Shetland children with a working knowledge of their local environment and its history in a general way. Later, specific studies such as a discussion of the historical geography of transportation and communication in Shetland by Donaldson (1978), or studies of demographic trends by Coull (1967) and Sutherland (1967) received some attention. Both Coull and Sutherland used census material as well as earlier, less reliable sources such as Webster's census of 1755 and supplementary data extracted from the two statistical accounts. While Sutherland dealt solely with the "Shetland Population - Past, Present and Future", Coull compared demographic trends in Shetland and Faroe. De-

¹The presentation of a collection of folk material every five years has not only indicated that there is a lively interest in local history but it has also helped to stimulate and maintain the ongoing process of collecting material relating to the traditional way of life. Today, these books help to promote an interest in the history, traditions, literature, dialect and music of the islands at a time when the area is again faced with the prospect of rapid changes.



tailed local studies describing the evolving crofting landscape of the nineteenth century such as those of Coull (1964) on Walls and Thomson (1970) on Fetlar have also been undertaken. A further case study by Wheeler (1964) reviewed the changes in Shetland society from Norse times to the present day as represented by Unst, while a study of legal disputes in Cunningsburgh by Renwanz (unpublished Ph.D. in progress) demonstrated the value of a detailed, small-scale study involving a particular community.

Although the Shetland Islands have been the subject of numerous books and articles over the years, the impending oil age and the changes which it would introduce to the islands stimulated authors of the 1970s such as Nicolson (1972, 1975) and Fenton (1978) to try to capture the Shetland that had existed before the coming of oil. The overriding concern was to record the old way of life and traditions before they disappeared. A type of local "nationalism" was developing and several studies were conducted highlighting specific aspects of Shetland's colourful history.

Although the focus of interest has varied, tracing the economic and social change from the nineteenth century onwards formed the basis of a few studies. A detailed analysis of the development of Shetland society during the late eighteenth and early nineteenth centuries, with particular reference to the landlord-tenant relationships, was undertaken by Wills (1971, 1975) by making special use of the Gardie House estate papers. Smith (1972) dealt with the interdisciplinary subject of the development of Shetland trade in which he re-evaluated the traditional interpretation of the history of the islands. Another writer chose a particular aspect of the changing economy -- that of the historical geography of the Shetland fisheries (Goodlad 1971) -- for a detailed study. "So far, however, there has been little attempt

to push studies back into the period preceding the mid-eighteenth century" (Whyte, 1976, 18). Obvious difficulties with source material existed although Smith (1973, 1974, 1977, 1978)

has made several contributions, primarily in the form of unpublished papers, which delve into Shetland's medieval past in an attempt to explain its social history and in particular the intricacies of its complicated system of landholding.

Recent historical studies have tended to emphasize the traditional way of life therefore providing insight into Shetland's past. In addition to the wide-ranging studies concern has been focused primarily on the sea-based aspects of the economy while its complement -- the land-based agricultural system -- received little direct attention. This is contrary to the situation on the Scottish mainland where "The study of landscape evolution has occupied an important place in Scottish historical geography" (Whyte, 1976, 10). Until recently, discussions dealing with the topic of landscape evolution in Scotland have primarily focused on the physical and social manifestations resulting from agrarian change as in the studies of Handley (1953, 1963), Symon (1959), Hamilton (1963), Hunter (1973, 1976) and Fenton (1976). These works provided general background knowledge on the division and enclosure movement and its effects on the rural landscape of (mainland) Scotland and while no references were made specifically to Shetland, they assisted in placing the Shetland experience into perspective by highlighting some of the events during the period of agricultural improvement.

In his detailed analysis of the process of division, Adams (1967, 1971a, 1971b, 1973) stressed the legal, institutional change as a primary aspect in the overall pattern of landscape evolution. By surveying the history of commonly division in Scotland, Adams established the foundations for further research of a more specialized and regional

nature. Although various authors have written on the subject of commonities, few other than Fenton (1978) and MacGregor (1976) have discussed its counterpart in Shetland -- the scattald -- except in general terms. MacGregor was particularly concerned with the subject of divisions as it applied to Shetland with special reference to the scattalds of south Delting parish. This detailed case study refuted the idea put forth earlier by Millman (1975) that agricultural improvement never reached the Shetland Islands.

Except for MacGregor's study, however, the subject of landscape evolution and particularly the effects of the division act in Shetland have received little attention. A major reason for a paucity in the literature on this aspect of Shetland history can be attributed to the lack of analysis of the court books and records along with the estate papers. These have recently begun to emerge as two of the most important manuscript sources for the study of agriculture and landscape (Whyte 1974). Therefore, to develop a study of the process of division it was necessary to conduct a systematic analysis of the contemporary literature and documents. These primary sources provided data on the legal mechanics of change and their physical manifestations on the landscape as well as a contemporary commentary on the subject of agricultural improvement.

Contemporary Literature

During the eighteenth century travellers such as Brand (1701, reprinted 1883), Sibbald (1711), Gifford (1733, reprinted 1879) and Low (1774) wrote descriptive historical accounts of the way of life in Shetland, each stressing the overriding importance of the sea-based economy. However, by the 1790s literature began to record a change in popular opinion. The agricultural sector of the economy, and more importantly, agricultural improvements began to receive attention.

Although various descriptive accounts were written by Neill (1806), Edmondston (1809), Hibbert (1822), and Ployen (1894) which reflected upon the way of life in the islands, the emphasis was now beginning to be placed on agricultural improvements such as scattald division. Authors directed their comments toward the scattald and in particular toward the inefficient use of the land resulting from the contemporary system of multiple ownership. John Shirreff wrote the General View of the Agriculture of the Shetland Islands (1814) in which he commented on the overuse and misuse of the grazing land. "To divide the whole land and place it in a state of severalty" (Shirreff, 1814, 92) was the solution Shirreff proposed to curb the inefficient use of the scattald. While observers in the past had viewed the scattald as a potential area for cultivation, Shirreff foresaw the divided scattald as capable of providing better breeds of livestock, particularly sheep. Observations such as these were alluded to in the earlier work called The Statistical Account.

In the 1790s Sir John Sinclair undertook the project of compiling The Statistical Account of Scotland drawn up from the communications of the ministers of the different parishes (1791-9). This twenty-one volume, nationwide survey was an attempt to assess the major characteristics and facts of Scotland at a local level. Later, The New Statistical Account of Scotland (1845) was compiled using a similar format to that of the first account. Because a multiplicity of authors had produced both surveys they lacked uniformity and this led to problems in interpretation. Nevertheless, it was possible to compare the impressions and opinions established in the statistical accounts because their characteristics and limitations were similar. These accounts presented a vivid yet general portrayal of Shetland life at the end of the eighteenth century and again during the mid-nineteenth century -- both times crucial to this study. The former account provided a pic-

ture of agriculture prior to divisions while the latter established contemporary impressions of the reorganization and improvements which were occurring simultaneously with the process of division. It is unfortunate that for the purpose of comparison a similar type of study was not completed for the last decades of the century since the changes evident on the landscape no doubt would have given much to write about. However, several other sources provided insight into the final years of the nineteenth century and the effects that agricultural improvements had on the population.

The wealth of descriptive literature of the period included not only the statistical accounts but also the Board of Agriculture Reports. Begun in 1855, these reports documented the changes that were occurring in the traditional agricultural system (see Chs. 11, 12). Each year crop acreages and livestock totals were recorded by parish. Simply the difficulty in collecting such data from all the islands no doubt provided built-in inaccuracies. However, the figures do provide the historical geographer with very definite trends in agriculture.

In 1874 Henry Evershed wrote an article "On the Agriculture of the Islands of Shetland" which highlighted the agricultural improvements by comparing the "Ancient System of Farming and Native Breeds of Animals" with "Sheep Farming and Large Farming".¹ Two years earlier the Truck Commission (1872) had visited Shetland and although the emphasis was focused primarily on the fishing industry evidence from the hearings was also very informative concerning Shetland agriculture

¹The same year Skirving wrote an article of the same title for the same society. Skirving Robert, "On the Agriculture of the Islands of Shetland", Transactions of the Highland and Agricultural Society of Scotland, Fourth Series, Vol. VI. (Edinburgh, 1874).

in the 1870s. During the hearings the tenants were not as open with their comments as they were to be later when the Crofters Commission came to Shetland in the 1880s. Regardless, the final report did provide a contemporary picture of life in the islands with numerous valuable comments regarding the use of the scattald.

Although both commissions provided insight into the economic and social state of Shetland toward the end of the division period, perhaps one of the most important sources regarding agricultural improvements was the evidence presented before the Napier Commission about the condition of the crofters (1884). Crofters travelled to the hearings held in each parish to give evidence either of their own accord or as a representative of their area. Each witness was asked standard questions concerning the social and economic state of the parish and comments were regularly made regarding agricultural change. Improvements in the breeds of cattle and sheep were noted, as were the evictions and the new sheep farms (Napier 1884). The report of the Napier Commission led to the Crofters' Holdings Act of 1886. The Crofters Commission was established to travel throughout northern Scotland to hear crofters' appeals concerning such issues as fair rent and tenure. The first hearing was held at Dunrossness on 24 August, 1889. Both the Shetland Times and the Shetland News carried full coverage of the evidence obtained at the hearing as the court travelled throughout the islands.¹ Discussions concerned with grazing practices before and after scattald divisions were recorded along with miscellaneous information on a variety of subjects. Although of course very subjective, these quotes presented in the newspapers provide historical geographers with personal glimpses into the effects these legal changes had on the population. However, more

¹The Shetland archivist possesses a file of these clippings.

importantly, this source provided knowledge of the tenants' opinions regarding legal divisions and the enclosures which often followed.

While these sources provide an overview of the Shetland environment it was necessary to use documentary evidence to establish and substantiate the nature of scattald divisions. The following section provides a detailed description of these sources.

Contemporary Documents

Of primary importance to this study were the contemporary documents. Indeed, the volume of information dealing with nineteenth century Shetland is vast. As most of the archival and Sheriff Court material was uncatalogued or handlisted by bundle or box at best, it was essential to survey the material to select those documents most useful to a study of the changing structure of land proprietorship. Document types were classified, their value with respect to the study was assessed, and in the end certain types of documents were selected and used. These included the Court Records (Sheriff Court and Court of Session) and the Private Estate collections. While the court records supplied specific information and examples of the legal division process, the various estate papers contained more general aspects of Shetland estate management.

Court Records

These sources provided legal evidence of scattald divisions which formed the basis of the study. Initially, the records provided exposure to legal terms and therefore interpreting the documents required a certain amount of legal vocabulary. Consequently, a glossary of "Legal Terminology" applicable to the study was developed (Appendix C). Classics such as Bell (1826), Barclay (1855) and Gibb (1946) served this purpose. Because scattald divisions were handled by both the local court in Shetland and the civil court in

Edinburgh, the records of each were consulted. Generally, these documents contained valuable information which established such things as: the format followed in a division process, the individuals involved and perhaps their motives for instigating the division, as well as the crofters' opinions concerning things such as scattald boundaries and the traditional pattern of land use and land ownership.

The court records of Shetland are housed in the Lerwick Sheriff Court mostly in an uncatalogued form. Although the Sheriff Court contained various types of documents, three ultimately proved useful. First, the Register of Deeds (1687-1902) assisted in establishing the nature of not only informal divisions but also early Sheriff Court divisions. Decrees Arbitral and Deeds of Agreement listed chronologically in the Register contained the final decision of the court concerning numerous disputes over land use and scattald boundaries in addition to divisions of scattalds. Next, the Sheriff Court processes were searched for documents dealing with scattald divisions or land disputes occurring between 1750 and 1899. Decrees, deeds, agreements and correspondence contained in the processes and covering a wide variety of topics provided detail and clarity to the study, while miscellaneous documents shed light on disputes of all sorts. Finally, the Sheriff Court contained maps -- some complemented the scattald division processes while others illustrated other aspects of estate management.

Although the Sheriff Court contained several division cases most scattald divisions were carried out by the Court of Session in Edinburgh. The Court of Session records comprised of processes, maps, sketches and plans are housed in the Scottish Record Office, West Register House, Edinburgh. Catalogued by Adams, the processes are listed according to the final decree date as well as the pursuer's

and defender's names, while each map, sketch and plan is recognized by a Register House Plan number (designated RHP). The task of finding specific division cases was simplified by using the Directory of Scottish Commonties (Adams 1971a) which lists by parish, each commonty along with references to any relevant Court of Session material. By using the directory it was possible to focus specifically on processes dealing with scattald divisions in Shetland. Cases varied greatly in length. Some processes involved one hundred or more separate documents while others contained only a few. Where there was a paucity of documents this tended to be because a case was not completed or the documents were lost in earlier times when the lending procedures were somewhat lax. On the other hand, if a division involved many heritors with various differences the result was a lengthy, legal process. Each process followed a set format although variations did exist. A few documents in particular were studied, if available, including the Summons, Minutes, Proofs, Valuator's and Surveyor's reports and Interlocutors (see Ch. 4). Together these documents provided information not only on various aspects of the division process itself, but also on the agricultural traditions of the community.

Private Estate Collections

Most of the private estate muniments now housed in the Shetland Archive, Lerwick consist of miscellaneous collections which once belonged to individual families. These collections contain various written items, many of which do not relate to the specific period or topic of this thesis. For the most part, the estate papers provided a general view of estate management in Shetland, despite a paucity of material relating specifically to agriculture. These personal accounts including the rentals, diaries, day books and letters added detail, clarity and depth to the study by supplying an insight

into everyday life in Shetland during the nineteenth century. Moreover, miscellaneous maps and copies of division documents in the estate collections often provided the only surviving evidence of a scattald division, the official, legal records having been lost.

Although most estate collections were handlisted by bundle or box some remained uncatalogued. Collections ranged in size from a few bundles (e.g. Edmondston of Bunes) to vast numbers of books and boxes (e.g. Bruce of Sumburgh - D8). All that remains of the Nicolson of Lochend estate papers are three notebooks donated to the Shetland Archives by Alexander Fenton. They contain his personal notes taken from the collection prior to their destruction. Because Fenton was particularly interested in the division of Papa Stour, his notes stress this subject. However, references were made to the reorganization of other land belonging to Nicolson, in particular the island of Fetlar. Several entries in Fenton's notebooks refer specifically to the Fetlar scattald division process and thus augment the surviving evidence in the Court of Session records. This example illustrates the importance of document survival to historical geographers. The archive also housed two sizeable collections which had belonged to prominent Shetland land surveyors. The Thomas Irvine (TI) and Andrew D. Mathewson (ADM) estate papers provided a more personal view of the scattald division process in comparison to the legal view expressed in the court documents. Surviving maps, letters, and notes made it possible to assess the development of the land surveying profession as it responded to the increasing interest in private ownership in Shetland.

Although the majority of estate collections are contained in the Shetland Archive some remain in private hands such as the vast Gardie House collection of maps, letter books and files, and

rentals, while the Scottish Record Office (SRO) possessed both the Bruce of Symbister and the Dundas (or Earl of Zetland) collections. The former included drafts and copies of division documents along with rentals and miscellaneous correspondence, however, the latter curiously had little information pertaining to Shetland.

All the literature sources mentioned contributed to the overall understanding of the period and in particular, scattald divisions. By carefully manipulating the appropriate information obtained from these various sources, it was possible to complete the first phase of the thesis -- that of defining the more than one hundred scattalds.

CHAPTER 4

DEVELOPING A SCATTALD MAP

Although the concept of a scattald is ancient,¹ the precise legal definition of its boundaries is relatively recent having been established during the scattald divisions. Historically, the memory of the older people was used to establish the limits of the scattald while the regular practice of "marching the Hagra" or perambulating the marches was used as a means of examining and reaffirming the boundaries of each scattald (O'Dell, 1939, 53). By the late eighteenth century this traditional method was rarely practised although the knowledge of scattald boundaries continued to be passed down through the generations by word of mouth. These verbal descriptions of the limits of each scattald expressed the inhabitants' perceived grazing rights. While each tenant had what he believed to be a clear idea of his particular scattald's boundaries, these were often a matter of dispute due to the discrepancies that arose in interpretation. Through time different factors such as increasing population pressure or changing ownership patterns affected the size, shape and number of scattalds (see Part II). It was not until some of the scattalds had undergone legal divisions that the specific boundaries of individual scattalds were recognized and mapped. Only then was it possible to attempt the construction of a comprehensive map showing the individual scattald boundaries.

During the early twentieth century two attempts were made to draw the scattald marches in specific parishes of Shetland. First, the boundaries of the scattalds in Northmavine were drawn on an

¹In his paper entitled "Scat and Scattalds..." Smith discussed the age of scattalds. He argued that scattalds pre-dated the establishment of parishes and that they are "...as old as the original Norse settlement of Shetland" (Smith, 1977, 2).

Ordnance Survey six-inch map (1877, revised to 1922) by Arthur White, factor of the Busta estate. Second, a map of the scattald marches of Unst was compiled from various sources by O'Dell (1939). Previously, written accounts of the scattald marches of the parish were published by Johnston (1910). Nevertheless, Shetland as a whole lacked a comprehensive map depicting the morphology of the scattalds. It was necessary therefore to assemble such a map to illustrate the geography of the nineteenth century Shetland landscape including the names, locations and boundaries of the scattalds before a detailed study of the scattald division process and its effects on the landscape could be accomplished.

In order to piece together the puzzle it was essential to isolate the documents which contained the most likely sources of information. Appendix A, "The Directory of Shetland Scattalds", represents the end result of this research. The directory traces the division process of each scattald by utilizing a variety of sources including: the Court of Session and Sheriff Court processes often accompanied by sketches, plans and maps; the first edition of the Ordnance Survey maps of Shetland; sporadic documents contained among private estate papers; and finally, to a limited extent, the present-day landscape. In the following paragraphs these sources will be discussed in turn, stressing the importance of each in developing the composite picture of scattald boundaries. Finally, the general procedure used to determine the perimeter of each scattald will be explained along with any problems encountered.

Sources

Because the instigation of a scattald division in the Court of Session required at the outset the clarification and recording of existing scattald boundaries, attention was initially directed to

these processes. Housed in Edinburgh and catalogued by Adams (1971a), the Court of Session processes, including sketches and plans, provided the most accessible and obvious point from which to start the compilation of a map illustrating the scattald marches. The collection of Court of Session processes dealing with the Shetland Islands is sizeable and contains documents which detail the division of at least fifty-five of the over one hundred and twenty scattalds (Appendix A). In particular, maps and written accounts present in the division process deal with the perambulation of the marches. By collating the information contained in the documents from this one source alone it was possible to establish a detailed outline of the boundaries of at least 40 percent of the scattalds.¹ In addition valuable clues regarding the boundaries and ownership of conterminous scattalds were often included within these Court of Session writs and maps, sometimes allowing sections of adjacent scattalds to be determined at the same time. Quarff scattald (Lerwick parish) provides a prime example of this. Although it was never divided the boundaries of Quarff are clearly evident on maps produced during the division process of the adjacent scattalds of Fladdabister, Uradale and Brindister. Because Quarff possessed a common boundary with each of these scattalds once their boundaries were determined so were those of Quarff by definition (Appendix A; Fig. 8).

Although the Court of Session processes undoubtedly provided the most useful and complete coverage of scattald information, the Sheriff Court records and maps were among the other documents which helped to fill in some of the remaining gaps in the picture. The Sheriff Court was responsible for at least fourteen complete divisions

¹There were about 127 scattalds in Shetland at this time, of which 55 were divided by the Court of Session. Thus, the boundaries of approximately 43 percent of the scattalds were obtained from this one source alone.

and maps along with sketches and written descriptions again provided the main sources of information regarding the boundaries (Appendix A; Ch. 7; Fig. 16; Table 3). Since these sources were not completely catalogued but rather existed in disarray, information was obtained by going through boxes of material. Despite this processes dealing with scattald divisions and hence scattald boundaries were discovered, although not always complete.¹ In addition, it may be assumed that for some division cases documents have not survived at all.

Estate papers were useful in providing information regarding the ownership of scattalds although rarely were descriptions of the scattald marches included. Occasionally copies of writs or private agreements were discovered but these discoveries were rare due to the lack of cataloguing of documents combined with their chance survival. Nevertheless, the Nicolson collection provides an example where such writs and letters have survived and they describe the development of private ownership during the division of the scattalds of Fetlar (Appendix A - Fetlar).

Personal correspondence contained in estate collections was often helpful in determining if a landowner had acquired the total rights to a scattald either through land sales or straight land exchanges (excambions). When this occurred the scattald no longer required a division process and therefore, it was difficult to obtain a description of the boundaries. Nevertheless, such information usually substantiated by the Valuation Rolls permitted the author to cease in the search for processes dealing with that particular scattald and to relegate it to the "owner-occupied" or "one owner" classification. By

¹See Appendix A - Otterswick and Wilhelmina scattald, Yell. Although the division was begun in the Sheriff Court there are no documents to indicate that the division was ever completed.

the end of the study the boundaries of solely-owned scattalds (for example, Skaw and Burrafirth, Unst; Culswick and Reawick, Sandsting; and South Cunningsburgh and Clumlie, Dunrossness) in most cases had been partially or wholly defined by the determination of conterminous scattald marches (Fig. 8; Table 1).

The task of transferring the boundary information from various sources to a base map was difficult at the best of times. Indeed, in many cases boundary descriptions and maps contained places or landmarks no longer in existence. If sketches or plans provided the only clues to boundaries the orientation of the scattald might even be in question. Therefore, a secondary source of information essential in determining the scattald boundaries was the Ordnance Survey six-inch maps of Shetland (1st edition). Produced during the late nineteenth century these maps recorded many of the old placenames, township and parish boundaries, houses, and geographic terms and combined with the large scale of the maps these often helped to clarify a specific scattald's configuration. However, the Ordnance Survey maps did not always just provide a reference. In two cases -- that of Walls and Aithsting -- the Ordnance Survey maps actually identified the scattald boundaries. The reason for this was twofold. First, the two scattalds were divided about the time the Ordnance Survey was surveying the area and it is possible that all known information, including the recently-defined scattald boundaries, was recorded by the surveyors in an attempt to produce a complete picture of the landscape. Second, in the case of Walls the legal process had determined that the parish contained only one scattald and therefore it logically followed that the parish boundary habitually drawn on Ordnance Survey maps also served as the scattald boundary. For Aithsting, its east and west boundaries **corresponded** with the Sandsting parish ones

while its southern boundary followed the lakes, rivers and voe.

Finally, the present-day landscape occasionally provided clues concerning scattald boundaries though these clues could be confusing and misleading. An example where the evidence found on the ground did not support the legal evidence (in the form of writs and maps) is illustrated by the South Cunningsburgh scattald case.

In 1874, two years after he had taken over the running of the estate, John Bruce, junior of Sumburgh "...erected fences at the south and north sides of South Cunningsburgh...without consulting anyone..." (GD 144/247 Bruce to Bell Jan. 1878). These fences are still visible today. The north fence extends from Skerry of Holms Geo on the west coast, up to the top of the hill of Scroo, south to a place called Forsan near the junction of two streams and east to the town dykes; the south fence extends from Keenabonus on the west coast, north to the cru of White Horse, then south to the stone of Erne's Gill and on to a place called Crossgerd, near the north gate of the town dyke. However, to complicate matters the final map produced during the division of the Dunrossness scattalds in 1888 offered alternate boundaries for South Cunningsburgh. Therefore in review, according to judicial accounts and current evidence on the landscape, the South Cunningsburgh scattald possessed two distinctly different sets of boundaries; one represented by visible dykes and the other by perceived legal boundaries (Fig. 6). This case in point illustrates that careful documentation of evidence concerning each scattald boundary was essential if a decision concerning the marches was to be extracted from the available information in the end. Although the present landscape often provided valuable evidence this was carefully weighed against contemporary accounts and invariably, if the latter was avail-

able, it was preferred.

PROCEDURE

Using these sources it was possible to establish a very general procedure to determine as closely as possible the limits of each scattald. Attention was first directed towards the sketches, plans and maps and these were viewed in conjunction with the first edition Ordnance Survey maps (six-inch scale) as a reference. While sketches produced during the preliminary stages of a division were most helpful in establishing the location and general layout of the scattalds, numerous maps and plans produced later in the process often provided a more detailed view of its boundaries. This occurred for two basic reasons. First, since the objective in mapping was to facilitate divisions it was logical that sketch maps before division would become detailed plans upon completion of the division. Second, as the practice of mapmaking became more developed, maps generally became more accurate. Diagrams produced during the divisions varied considerably in style and in the quantity and quality of information that they portrayed. This is illustrated by comparing the sketch of Fitful Head produced during the first Court of Session scattald division in Shetland, with the plan of North and South Cunningsburgh produced towards the end of the division period (Fig. 5, 6). Although the former provides a basic, overall impression of the scattald's extent the latter details the boundaries precisely. Some division processes included both sketches and plans (e.g. Channerwick division - Bruce v Bruce - CS46 39/8/1888 Box 5012; RHP3953-63); others exhibited only a sketch which represented the only diagram drawn at the time or the only one that survived (e.g. Fitful Head division - Bruce v Grierson - CS44 11/7/1826; RHP4003); still others contained no visual representation of the scattald boundaries (e.g. Fetlar divisions-Zetland v

Nicolson - CS249/7694A, CS249/7964B). In all cases it was essential to use corroborating evidence if available to substantiate, to clarify, and to expand upon the information contained in the maps.

In developing the scattald map a combination of the information gained from Ordnance Survey maps, sketches and plans contained in the processes, as well as written descriptions was used to arrive at a logical conclusion. However, the emphasis given to each source reflected its availability and completeness. Various documents contained within the division process provided copious written evidence regarding scattald boundaries and these provided valuable information to supplement the maps. These documents included: the summons of division, the Deed of Submission or Agreement, final decrees, witnesses' proofs, minutes of procedure, and Interlocutors, in addition to miscellaneous documents found among estate records.

The summons, deeds (of submission or agreement) and final decrees invariably included a detailed, written description of the scattald marches. The following quote taken from the Wadbister division process is an example of such a description.¹

"That the said scattald or commonity is bounded as follows:--- On the west and south-west by the scattald of Laxfirth, commencing from the top or west end of the enclosure, dyke, or fence separating the rooms of North Laxfirth and South Hammersland, and from thence following the vestige or remains of the old dyke, which is still traceable, and which runs somewhat circuitously from that point, and downwards to the south-east end of the loch of Vatster, and commencing on the opposite side of the said loch, at the south side of the sheep-croe or pund of Vatster, proceeding westwardly in a straight line upward to the top of the hill on the westside of the said loch, called

¹Other examples are numerous, for example, the Decree Arbitral in the division of Walls also provides a detailed boundary description (SC 12/53/13 p. 225).

FIG. 5

VIEW OF THE COMMON OF FITFILL AND

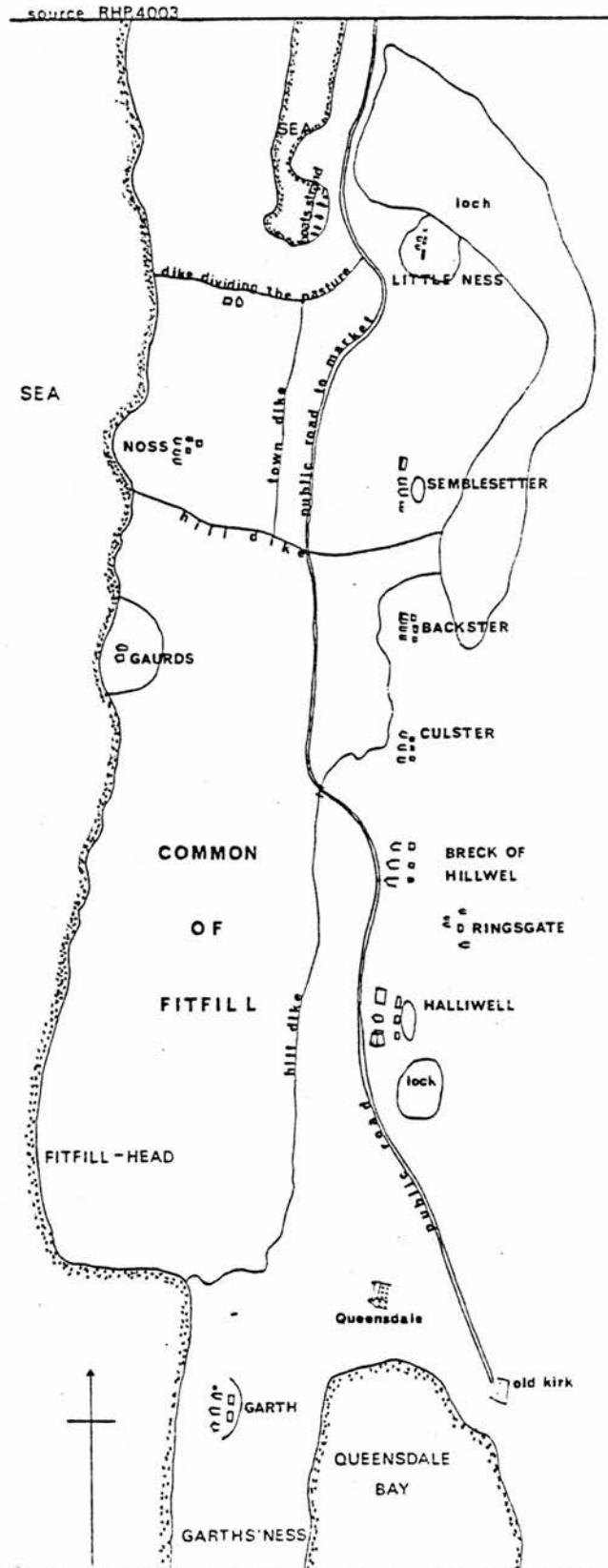
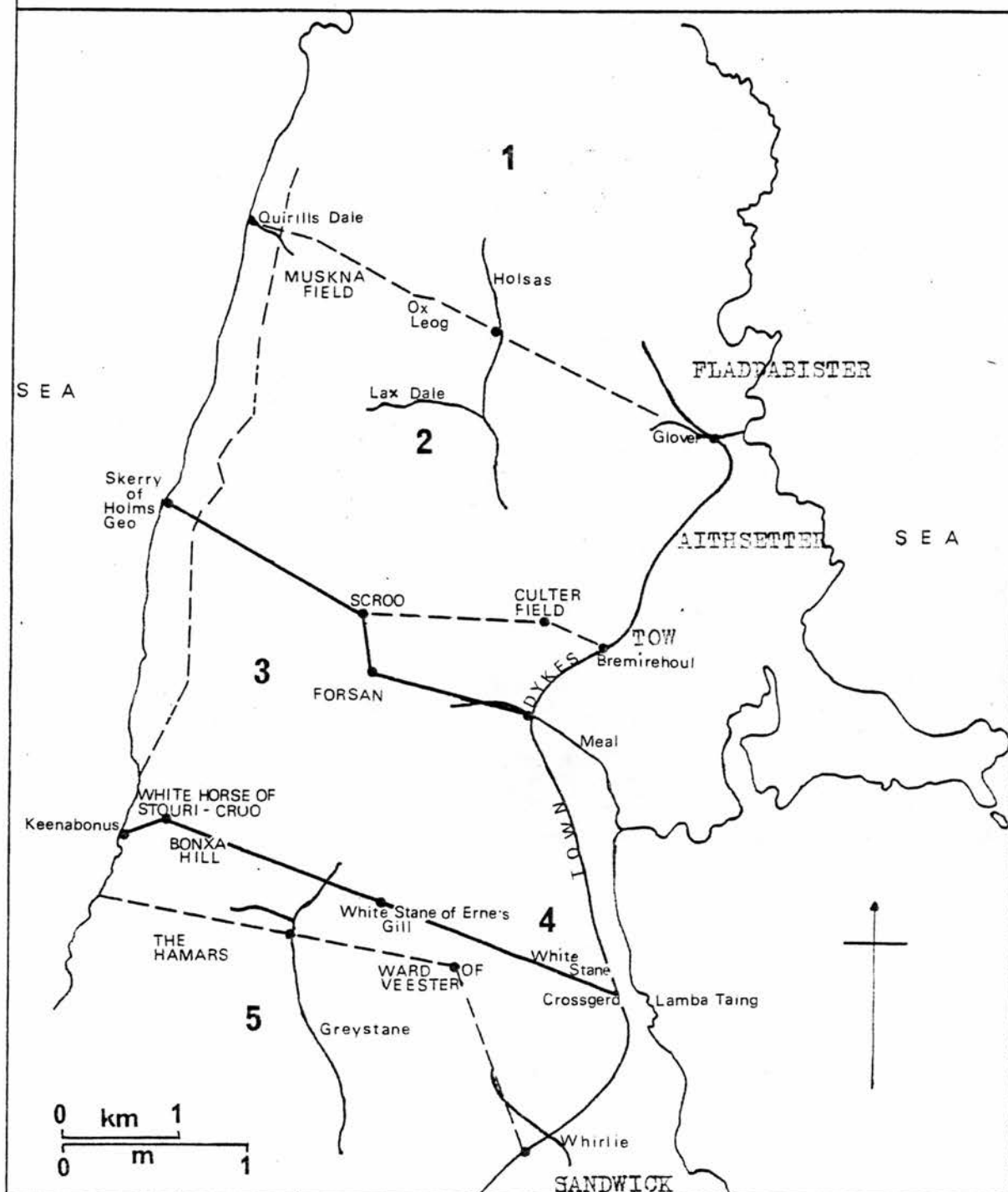
ADJACENT ROOMS, 1818
(N.N.)

FIG. 6

NORTH AND SOUTH CUNNINGSBURGH SCATTALD BOUNDARIES



SCATTALDS

- 1 Fladdabister
- 2 N. Cunningsburgh
- 3 S. Cunningsburgh
- 4 Sandwich/Leebotten
- 5 Hoswick

- scattald dykes
- - - scattald boundaries
- ~ burn

sources: RHP3956, 3962, 4148,
4149(1-8); 1st O.S.

the North Sneuckle, and from thence northward in a straight line to the stones called the Goe-stones, being the boundaries fixed by a contract of agreement entered into between the whole proprietors of the scattald of Laxfirth on the one part, and the proprietors of the said scattald of Hammersland on the other part...and from the Goestones in a south-west direction to the top of the know or hillock of Bodwell, and from thence to the sea-shore at the mouth of the Gilsaburn, where said burn falls into the sea; and otherwise by the sea-shore, the ancient dykes of Wadbister, North Hammersland, Easthouse, South Hammersland, the loch of Vatster, and the ancient dykes of Vatster" (Hay v Mouat - CS46 116/3/1854 Box 2134 Summons 10 Aug 1848, p. 2).

Assuming the reference points mentioned in the above quote could be located on the first edition Ordnance Survey maps (six-inch scale) a description as complete as this, complemented by sketches and plans, facilitated the transfer of scattald boundary information onto a base map. (For convenience the Ordnance Survey maps (1976) 1:50,000 were used as base maps.) To accomplish this, a simple technique was used. First, the features identified on the plan or in the document were located on the first edition Ordnance Survey six-inch maps. Next, their approximate location was plotted on the base map. And finally, the resulting dots or points of reference were connected to create a scattald boundary. This process is illustrated in Fig. 6.

Scattald boundaries were recognized by a variety of geographical and man-made features as the quote above suggests. Sometimes boundaries followed logical, geographical divisions such as ridges, valleys or streams, while geographic features such as shorelines, hill tops or stream junctions were used as boundary reference points. In addition, man-made landmarks or boundaries served to delimit a scattald area. Hills were often crowned with a cairn of stones to mark the line-of-sight of a scattald march, while trenches and ditches delimited some scattalds in the Sandsting area (personal communication -

Frank Robertson, Shetland Island Council, Lerwick, November 1977; October 1978). In all cases the town dykes constructed of stone and turf physically separated the hill pasture from the arable land (Fig. 6). Where physical boundaries were lacking or in doubt witnesses in the division often cited the grazing habits of animals as a means of discovering the pattern of scattald use and thus the boundaries. However, in most cases boundaries were recognized by a combination of all of the above.

In addition to the documents already mentioned, witnesses' proofs and minutes of procedure were valuable sources of information pertaining to scattald boundaries. Often these documents not only described in great detail the grazing practices observed by the community on the scattald in question, but they also noted the route the perambulators of the scattald followed, complete with differences of opinion expressed by the parties involved.

Because scattalds lacked precise boundaries before division it was essential that the court hear the various boundary interpretations presented by the witnesses in the form of proofs or minutes. These interpretations could be affected by various practices. First, the tradition of enclosing land from the hill often complicated matters by reducing the size of the scattald and occasionally altering its shape. It was the task of the court to decide which of the various enclosures still qualified to be divided under the Act and which ones had passed from common ownership by virtue of prescription. Second, in extreme cases the scattald passed from common to private ownership as a result of various excambions and therefore the need for legal division or for identifying the scattald boundaries legally was removed. In such cases other sources were necessary to determine the location and extent of the scattald. Often division processes of

contiguous scattalds provided this information. South Cunningsburgh scattald provides an example. Although solely owned by the Sumburgh estate its boundaries were determined during the divisions of contiguous scattalds (Fig. 6). Other scattalds of which little was known except its name and general location included Girlsta (Tingwall), Culswick (Sandsting), and Windhouse (Yell) and in each case all or parts of their boundaries were determined during the divisions of conterminous scattalds. Finally, since grazing represented the foremost use of the hill, boundaries were often determined simply according to the local tenants' perceived grazing rights. The scattald boundary of North Olnafirth was determined in this way as the following quote illustrates.

"...I do not know much of the old march marks or boundaries of the scattald, but I can speak to the ground on which our sheep were pastured..."
(Gifford v Zetland - CS46 87/5/1876, Minutes of Procedure, pp. 309-310).

And later, "I always understood that we had a right to occupy the pasture...I so understood because there were never any objections and our sheep always occupied the ground and I thought it likely we had the right. I never heard till of late of Maggie Seatties' house being a march -- nor of any other of the marches between North and South Olnafirth" (Gifford v Zetland - CS 46 87/5/1876 Minutes, p. 314).

The above evidence obtained from witnesses during the division established that in this case grazing practices rather than geographic or man-made reference points determined the boundaries of their scattald.

Because some division processes involved considerable discussion over the issue of boundaries, proofs and minutes were especially useful in following the reasoning used by the court in arriving at its final decision. In some cases these documents were essential for interpreting the resulting maps and hence the boundaries of the scattalds correctly. Without these documents, the maps and sketches

produced during the division are confusing. The discussion below concerning the common Weisdale-Whiteness scattald boundary presents an example. In other cases, particularly where crucial documents such as the final decree or map were missing, the proofs and minutes were helpful in piecing together the final decision of the court from preceding evidence (e.g. Sound scattald, Leriwck - SC12 53/15 Minute 1890, p. 40).

Because scattalds were contiguous and lacked fences it was common for sheep to pasture indiscriminately over the marches (OSA, I, 40, 400; Gifford v Zetland - CS46 88/8/1869 Interim Report 1865). As a result boundary disputes over scattald use were common (SC processes; Renwanz 1980) and invariably, a border land developed between scattalds whereupon animals from either scattald pastured to the utmost limit on the same ground. This was the situation which had developed between Weisdale and Whiteness. Therefore, when the boundary came to be fixed during the division both sides claimed the border land which they had used and possessed in common as their own (Horne v Black - CS46 12/10/1860).¹

A summons of division for Weisdale scattald was raised in 1848 and boundary disputes developed soon after. In 1851 the parties of Weisdale and Whiteness presented the court with a minute clearly stating their differences of opinion regarding the location of their mutual boundary (CS46 12/10/1860 Minute 1851). The owners of Whiteness felt that the boundary extended from Geostanes (Gue-stens), north to Groestanes (Grosten), then west to Queenascord and finally southwest to a point north of the loch. The Weisdale owners disagreed. Their boundary of use extended from Geostanes westward to the Stane

¹In particular see Proof for: Horne v Black 1854;
Whiteness Tenants 1855;
Messrs. Hay 1865;
D.D. Black 1857.

Also see Gifford v Zetland - CS46 88/5/1876 Minutes of Procedure, pp. 328-9.

of Comba (Fig. 7). In both cases the owners perceived the boundary which maximized the extent of their own scattald. John Craigie presented the court with a minute stating a third boundary option in 1854. "...that the march shall run in a straight line from the march stone of Queenascord to the stone called the "Stone of Comba" and from thence westerly in a straight line to Bally-brigg..." (CS46 12/10/1860 Minute 1854). A compromise was finally reached in 1859. The legal boundary which was established extended from:

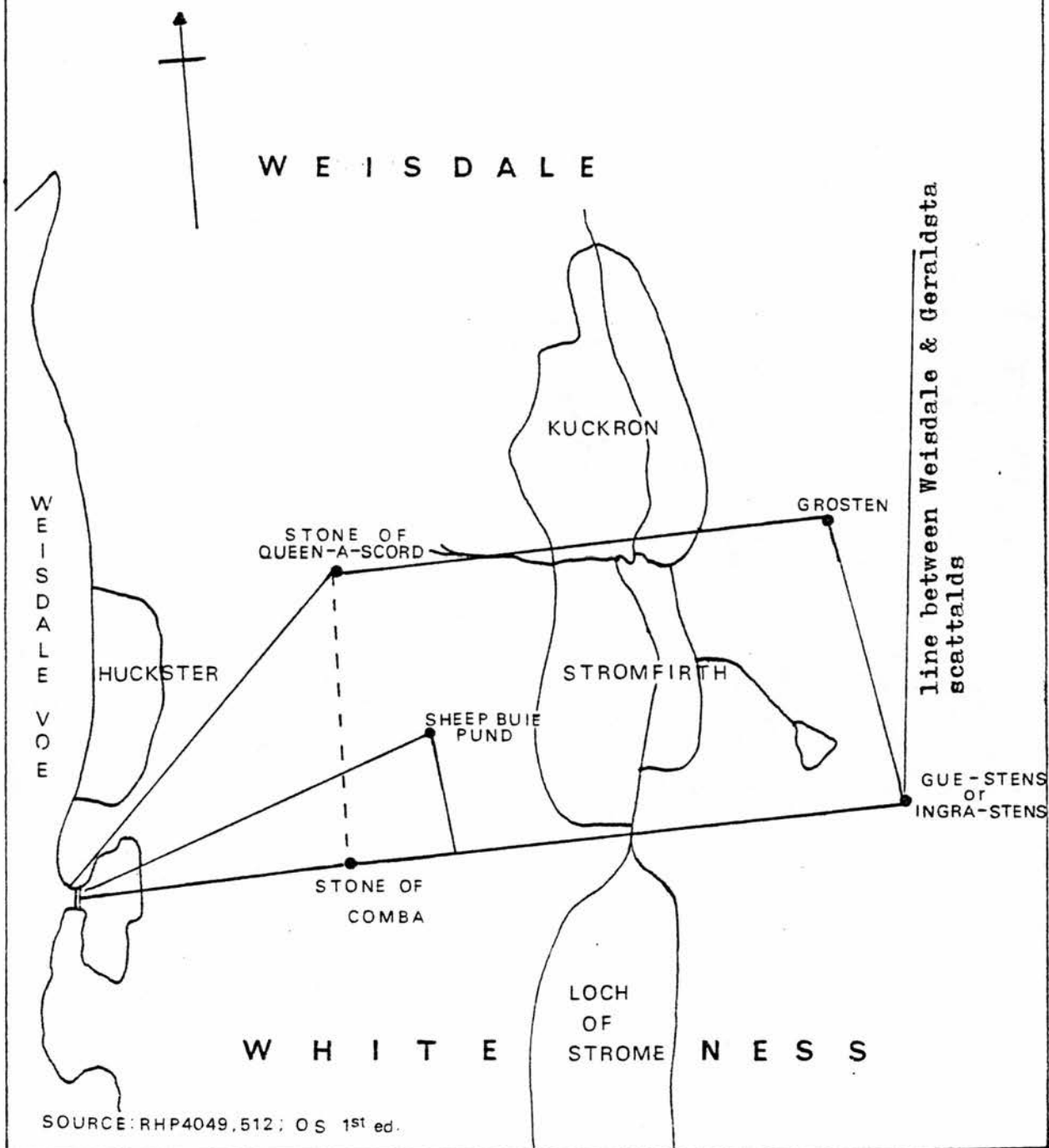
"... the 'Geu-stones' on the east, and intends westward in a straight line from thence in the direction of the 'Stone of Comba', until it comes to the place at which the said line is crossed by the small burn which runs from the Club of Stromfirth; that it then proceeds in a northerly direction and extends in a straight line so far northwards as to include the old Pund and sheep-buil at the back of the Club of Stromfirth; that from thence it proceeds in a westerly direction in a straight line to the centre of the Leog called 'Monk-a-Leog' where it enters the Loch of Hellester and from thence in a straight line through the Loch of Hellester to the place called 'Kalie-brigg' on the east side of Weisdale Voe" (CS46 12/10/1860 Joint Minute 12 May 1859).

For this division in particular the written evidence was as important as the maps in determining the final boundary.

Quite often a process was incomplete in which case documents found among estate records or contemporary literature provided valuable clues that helped to piece together the boundaries. The scattald of Gravaland (Yell) provided an example where legal documents preserved among estate papers provided information without which accurate boundaries could not have been drawn. Although the Court of Session and Sheriff Court records did not contain information about Gravaland scattald, three documents among the Thomas Irvine estate papers provided a relatively clear picture of the scattald boundary. In particular, an Interlocutor dated 1859 not only mention-

FIG. 7

ROUGH SKETCH OF RELATIVE POSITIONS OF DISPUTED POINTS
BETWEEN THE SCATTALDS OF WHITENESS AND WEISDALE
JUNE 1854 A.D.M.



ed the names of the pursuer, defender, commissioner, and surveyor (Thomas Irvine) for the division but it also described the scattald marches (TI 392/16). Therefore, by comparing the boundary reference points mentioned in the Interlocutor with the large-scale first edition Ordnance Survey maps it was possible to transfer the scattald boundary onto the base map. Two additional documents contained in the Thomas Irvine collection listed the scattald size, the survey and division dates, and the division costs. Some sketches were also found although they were very difficult to interpret (TI 390/45, 394/2).

The scattalds of Fetlar represented another example where miscellaneous sources provided missing evidence relating to scattald marches. In addition to the Court of Session process and maps, boundary information was also located among the Thomas Irvine, Nicolson, and Sumburgh estate papers as well as on the first edition Ordnance Survey maps (Zetland v Nicolson - CS249/7694A, CS249/7964B; RHP6163, 12817; TI 388/131, 137, 138, 171; Nicolson 134, 140; D8/418 Division of the Scattalds of Grutton, Aith, Funzie, Strand 1872). Because the land proprietorship of Fetlar was settled before the Ordnance Survey began surveying Shetland the first edition maps illustrated some of the physical results of private property, namely dykes. Sheet 130 of the Ordnance Survey distinctly shows dykes outlining the privately-owned scattalds of Oddsta, Urie, Dale and Grutton. For the other scattalds on the island which were also privately owned as a result of excambions, little is known of their exact boundaries and therefore the best that could be done was to approximate them.

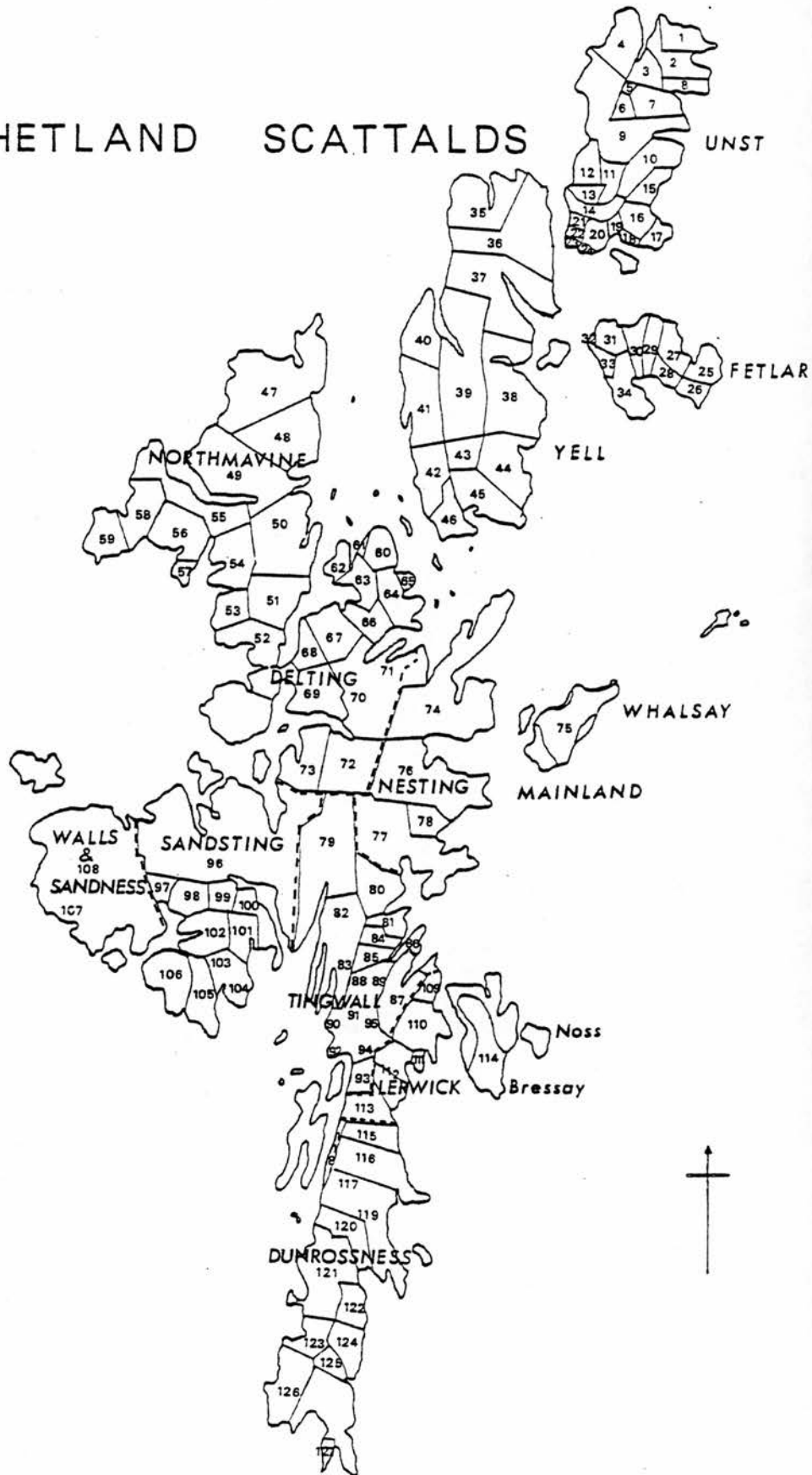
Southern Unst, south-west Yell, and Northmavine were other areas where little information was available relating to boundaries. However, a combination of contemporary literature and a few maps

along with an unpublished study written in 1964 provided enough information to be able to piece together a general scattald morphology of the area (Appendix A; Fig. 8). In only one area were scattald boundaries extremely difficult to trace. Much of the parish of Tingwall was privately owned by G.H.B. Hay. As a direct consequence few of the scattalds underwent division and the need for individual scattald boundaries disappeared (Smith, 1977, 9; SC12/53/13 Decree Arbitral 1875 (Houlland); VR118 - 1856, Tingwall). In this case the lack of boundary data for most of the scattalds in the parish made it virtually impossible to draw marches. However, the general location of each scattald was represented on the base map by an appropriate number which corresponded to a scattald name (Fig. 8; Table 1).

In summary, the limits of each scattald were determined by using a combination of various sources including: Register House Plans, Sheriff Court and Court of Session processes, private estate papers, Ordnance Survey maps and contemporary literature, while the emphasis and importance given to each reflected its availability and completeness. Wherever possible contemporary maps in conjunction with court records provided the most accurate means of identifying and mapping scattald boundaries. In cases where such data was scarce it was necessary to refer to the estate papers and contemporary literature. At all times cross-referencing took place in interpreting the material. On the whole the approach was less straightforward and orderly than the final map suggests, but rather evidence was interpreted continuously as it contributed to an overall picture. Nevertheless, a virtually complete map was produced which represented the population's perception of their pre-division landscape and its pattern of use. In essence, the map of the scattalds represented the land use of Shetland (Fig. 8). Once this was accomplished it was then possible to turn to the study of the divisions themselves.

FIG. 8

THE SHETLAND SCATTALDS



— Scattald Boundaries
 - - - Parish Boundaries

0 10
 miles

TABLE: 1

SCATTALDSUnst

- 1 Skaw
- 2 Norwick
- 3 Ungirsta
- 4 Burrafirth
- 5 Queyhouse
- 6 Cliff
- 7 Haroldswick
- 8 Clibberswick
- 9 Baliasta
- 10 South the Voe
- 11 Caldback
- 12 Collaster/Sellasetter
- 13 Underhoul
- 14 Wick
- 15 Golvadale
- 16 Sandwich & Framford
- 17 Muness
- 18 Uyea, Murrister/Clivocast
- 19 Hoversta & Mailand
- 20 Sound/Shore
- 21 Snabrough
- 22 Snarravoe
- 23 Wadbister
- 24 Heogaland & Mould

Fetlar

- 25 Strand
- 26 Funzie
- 27 Grutton
- 28 Aith
- 29 Houbie
- 30 Russater
- 31 Urie
- 32 Oddsta
- 33 Dale
- 34 Lambhoga

Yell

- 35 Houlland
- 36 Brough
- 37 Sandwich
- 38 Reafirth
- 39 Windhouse/Lumbister
- 40 Gravaland
- 41 West Sandwich
- 42 West Yell, Ulsta, Strand
- 43 Wilhelmminahoga
- 44 Otterswick/Gossaburgh
- 45 Nippoback/Burra-voe
- 46 Cuppister

Northmavine

- 47 North Roe
- 48 Skea
- 49 Collafirth & Ollaberry
- 50 Gluss & Bardister
- 51 Sullom
- 52 Hagrister & Mangaster
- 53 Nibon & Gunnister
- 54 Hamar
- 55 Ura
- 56 Hillswick
- 57 Ness of Hillswick
- 58 Murriion/Braewick
- 59 Eshaness

Deltin

- 60 Brough
- 61 Crooksetter
- 62 Caldbackness
- 63 Garth
- 64 Firth
- 65 Burraness
- 66 Laxobigging

- 67 Scatsta
- 68 Trondravoe, Hardwell, Voxter
- 69 Burra-voe
- 70 North Olnafirth
- 71 Collafirth & Swining
- 72 South Olnafirth
- 73 Gonafirth
- 74 Lunnasting
- 75 Whalsay
- 76 North Nesting
- 77 South Nesting
- 78 Skellister

Tingwall

- 79 North & South Weisdale
- 80 Girlsta/Brunt Hamarsland
- 81 Hamarsland
- 82 North Whiteness
- 83 South Whiteness
- 84 Laxifirth
- 85 Swinister
- 86 Tronafirth
- 87 Dale
- 88 Vinsgarth
- 89 Griesta
- 90 Burwick
- 91 Houlland
- 92 Berry
- 93 Uradale
- 94 Upper Scalloway
- 95 Asta

Sandsting

- 96 Aithsting
- 97 Browland
- 98 West Houlland
- 99 Effirth
- 100 Semblister & Sand
- 101 Garderhouse
- 102 Gruting/Airs of Selivoe
- 103 Easter Skeld
- 104 Reawick
- 105 Wester Skeld
- 106 Guls- wick

Walls & Sandness

- 107 Footabrough
- 108 Walls & Sandness

Berwick

- 109 Grimesta
- 110 Sound
- 111 Trebister
- 112 Gulberwick & Bindister
- 113 Quarff

Bressay

- 114 Bressay

Dunrossness

- 115 Fladdabister
- 116 North Gunningsburgh
- 117 South Gunningsburgh
- 118 Clift Hills
- 119 Sandwich & Leebotten
- 120 Hoswick
- 121 Channerwick
- 122 Levenwick
- 123 Scousburgh
- 124 Clumlie
- 125 South Hill
- 126 Pitful Head
- 127 Scatness

PART II

THE RESOLUTION OF LAND PROPRIETORSHIP --

A STUDY OF DIVISIONS AS A PROCESS IN ISOLATION

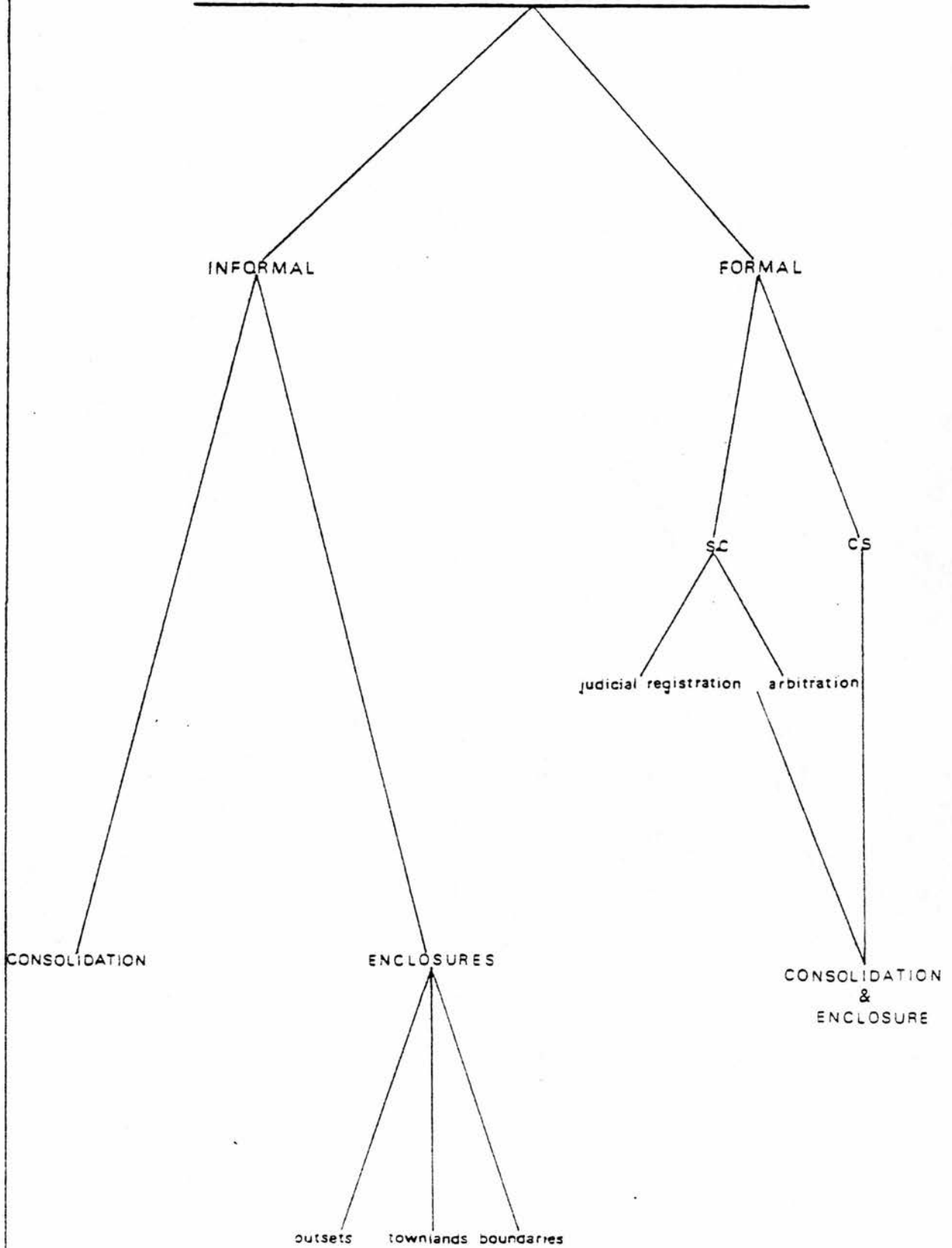
Introduction

It was inevitable that the ancient form of landholding in Shetland based on multiple ownership would eventually break down under the pressures induced in the nineteenth century. However, before detailed examples of this process are given it is useful to present the broader patterns of development.

As population increased and as expanding trade horizons altered the population's attitudes towards land, the private allocation of the common lands took place. The decision therefore was not whether to divide, but how to divide the commonry. Two options were open to the Shetland lairds of the late eighteenth century. The scattald could undergo an expensive formal division which involved a legal court process either in the Sheriff Court or in the Court of Session, or the scattald land could be reorganized informally which involved an extrajudicial process of allocating the common lands or scattald among the proprietors with rights to the hill (Fig. 9). The former process was lengthy, costly and complicated and therefore the lairds of the early nineteenth century, perceiving only the need for more arable land either to accommodate new fishermen or to increase their townships, opted for the less formal method of division. However, as time progressed legal action was viewed by the lairds as essential for dealing with the increasing frequency of cases involving land disputes between proprietors. In addition, as proprietors began to view the scattald as an area of potential value they began to take land ownership and consequently divisions more seriously and to assure as accurate a division as possible they set about submitting their division proposals to the courts. As their expectations of the scattalds' potential increased so did the landowners' expenditure on the preliminary agricultural improvement --- that of scattald

FIG. 9

FLOW DIAGRAM
OF
THE RESOLUTION OF LAND PROPRIETORSHIP



division. The complex legal procedure in the Sheriff Court and the even more expensive action in the Court of Session not only cost a great deal but also involved more people and more time than the previous methods of informal enclosure.

CHAPTER 5

THE INFORMAL REORGANIZATION OF THE SCATTALD

Inherent in a system where land was owned by one or more proprietors with rights of servitude extending to others was the lack of clarity of individual ownership both in the hill and in the townlands. This had been the cause of disputes in Shetland at least since the eighteenth century and probably reached back into time immemorial. By the nineteenth century land reform was becoming essential and the process of informally reorganizing the land as a forerunner to legal divisions offered an inexpensive and viable option. The landowners had two extrajudicial alternatives open to them for dealing with the allocation of the common lands among themselves. The earliest, most frequently used and most informal method involved the ad hoc enclosure of scattald land by the lairds for the sole purpose of improving and increasing their individual estates. These enclosures often resulted in disputes which were either settled privately or simply by a petition to the local court.

The second option open to the landowners for allocating the common lands was by consolidating their holdings. This involved a series of excambions and sales of land and in this way some of the landowners were able to acquire sole ownership of scattalds and thus avoid the legal division process altogether. In other cases consolidation merely tidied up land ownership in the scattalds but this in turn facilitated uncomplicated processes of division saving the lairds both time and money when the time came for the scattald proprietorship to be clarified. Generally, the fewer people involved in the land ownership of a scattald undergoing division the easier division tended to be.

Therefore, the options for dealing with the process of land

reorganization informally served the landowners well because these land reforms not only provided Shetland with the much needed additional arable land quickly, and as an alternative provided the landowners with a vehicle for enlarging and consolidating their estates, but they also reduced the amount of common land that remained requiring a court process for division.

Enclosures on the Scattald

In 1840 Mr. Edmondston of Bunes, a landowner in Unst, pointed out that the process of informally enclosing parts of the scattald was a very old and common occurrence:

"...for more than a century back (and tradition for centuries) it had been the immemorial practice for the proprietors of town lands or enclosed grounds to add to these by individually taking from the common or scattold and enlarging or adding to the said town lands thereby appropriating the pieces of scattold thus enclosed to their own use and constituting it their "individual property"... , and if not questioned within 40 years, to himself and heirs forever...yet every proprietor (almost without an exception) myself among the number have been in the habit of adding a few acres from the scattold or common to their town lands from time to time..." (Edmondston - Notes 23 Nov. 1840).

Encroachments on the scattald representing informal or partial divisions often led to disputes which resulted from such dubious activities as noted above. These disputes which were registered in the Sheriff Court, often survive as petitions or isolated documents among family papers, and as a result it is possible to establish the types of enclosures that were being made.

Enclosures of the hill pasture took a variety of forms of which the most common was the outset, or newly enclosed hill farm. In addition to enclosing outsets, both tenants and landowners made a variety of other general enclosures on the scattald in an attempt to increase their amount of arable land. In 1751 a proprietor in

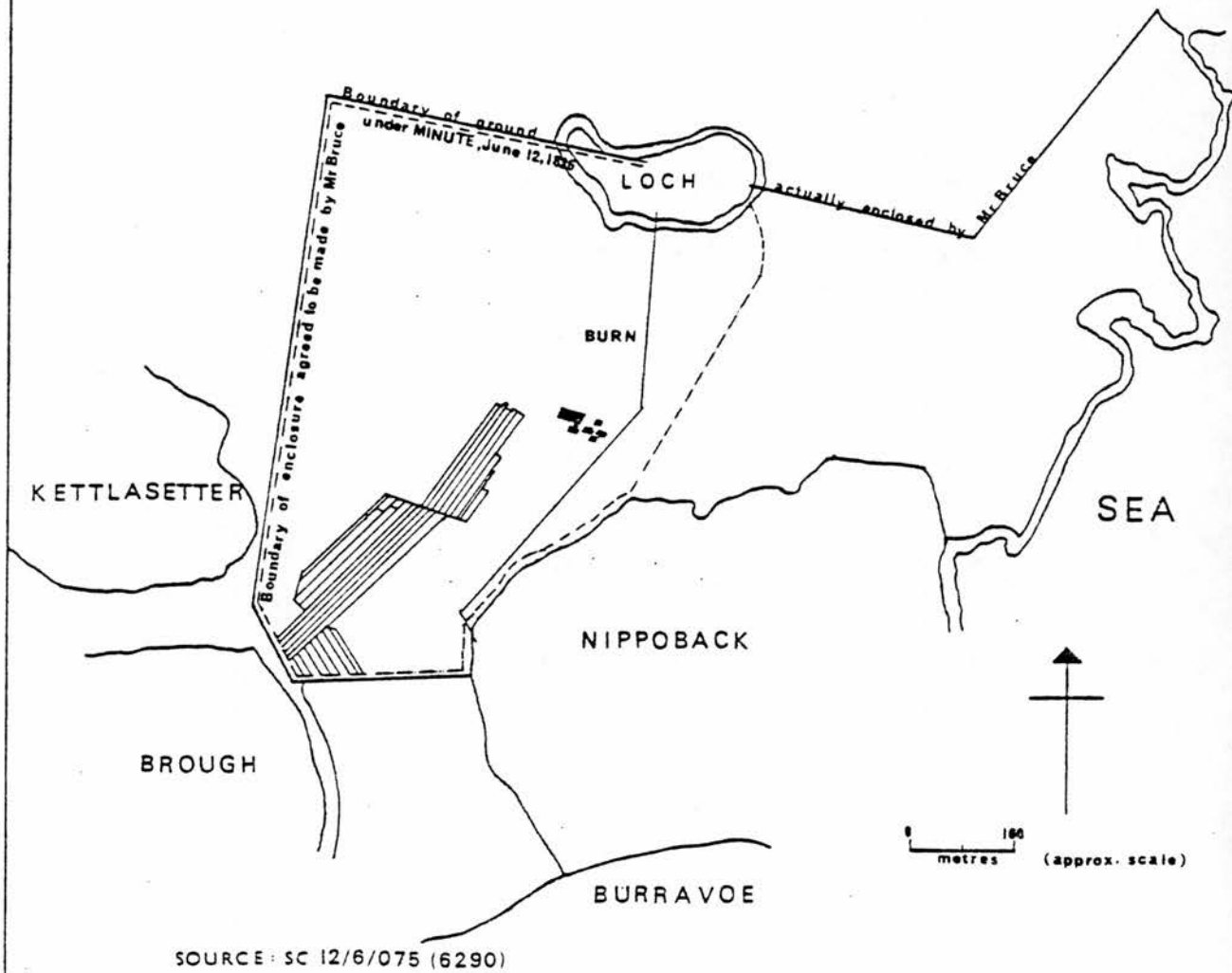
Aithsting petitioned the Sheriff Court to prohibit another from enclosing land from the scattald in the form of a plantie cru since this not only resulted in a loss of scattald land but it also happened to be blocking the passage to the hill for the livestock (loan). The proprietor responsible agreed to remove part of the wall that he had built so that animals could pass through to the scattald. Because he cooperated this case did not end in a division (SC12/6/049 (3774) Ross v Mitchel).

Disputes concerning informal enclosures of the scattald also occurred in other parts of Shetland. On the scattald of Nipoback (or Burravoe) a dispute arose between Robert Bruce of Burravoe and William Mouat of Garth and between May 1828 and August 1831 they argued back and forth through the Sheriff Court over the legality of a large fenced enclosure that Bruce was in the process of building. Bruce defended himself with the argument that Mouat had also through the years enclosed scattald land at will. The bickering over their outsets and shares in the hill finally ended in a perambulation and a sketch of Bruce's enclosure on the scattald (SC12/6/075 (6290); Fig. 10). However, this type of dispute had not ended for Nipoback. In 1856 the tables were partially turned when Robert Bruce (now the pursuer) accused a merchant and small landowner in the scattald, George Henderson, of enclosing scattald ground. In the end Bruce applied for an interdict against Henderson to stop him from continuing to build a dyke around the enclosure (SC12/6/109 Bruce v Henderson; TI 390/48). Although no written documentary evidence survives, the scattald appears to have been divided by the Sheriff Court sometime in 1856 or 1857.¹

¹"A Map of Ulsta and Strand" (n.d.), recently loaned to West Register House, Edinburgh, shows "Bruce Henderson's share" of Nipoback scattald. Mr. Henderson was a minor proprietor with a share in the scattald. Also, "A Map of the Scattald of Neepoback" by A.D. Mathewson (1857) exists in the Lerwick Sheriff Court. It shows the boundaries of the scattald and lists the heritors with shares in the merklands or townlands.

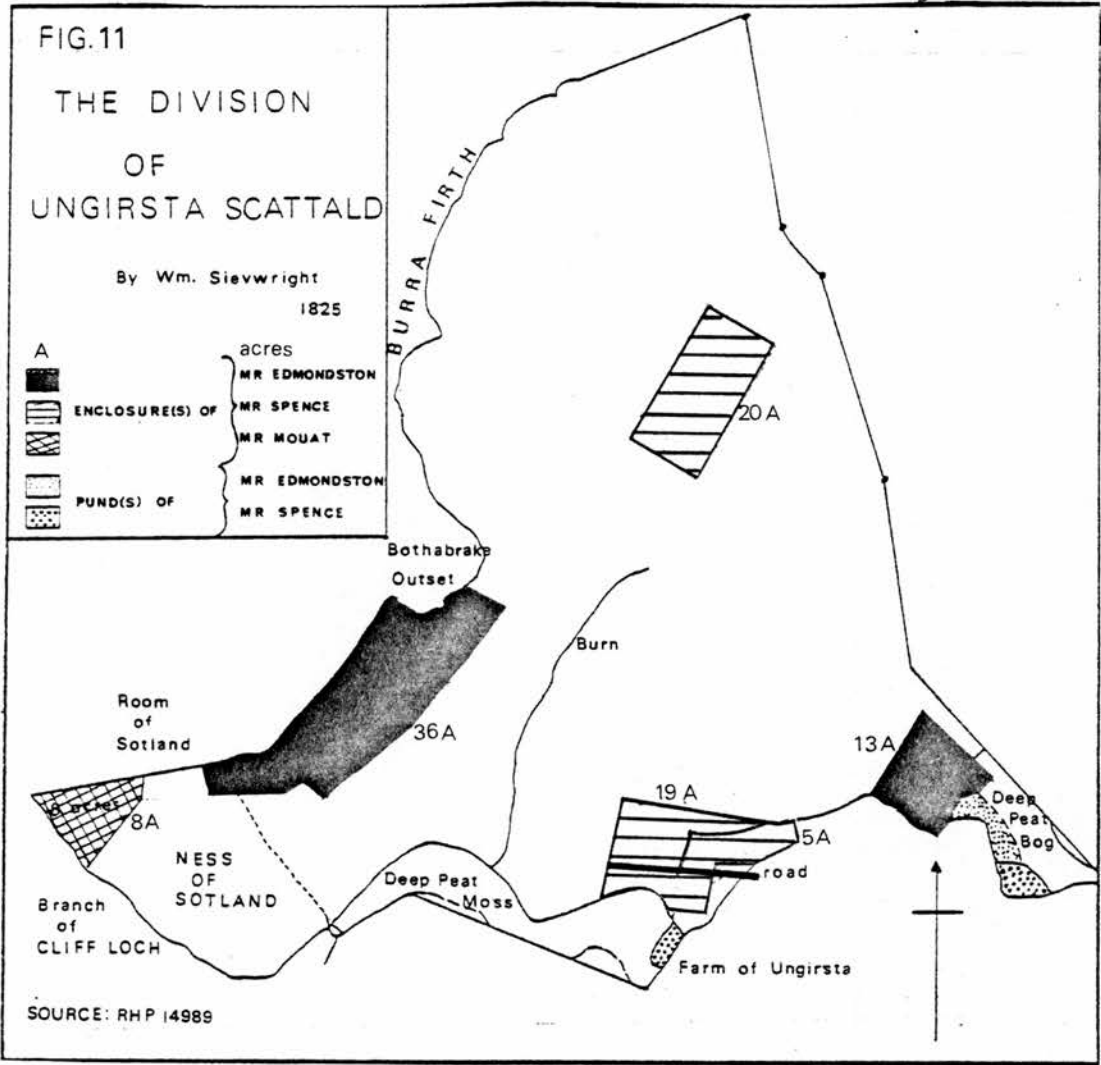
FIG. 10

PART OF NIPPOBACK SCATTALD, YELL



Of course there were also other forms of hill enclosures. The expansion of land fit for tillage within the town dykes was often accomplished by a mutual decision on the part of the proprietors to extend the hill dykes outwards to enclose the adjacent land. Therefore, by the time the legal division process for clarifying scattald proprietorship was introduced large parts of many scattalds had already been enclosed and occupied for forty years. Although lacking in legal documentation, the continuity of ownership for this length of time gave the occupant a prescriptive right in the eyes of the law.¹ This seemed to be the case with Ungirsta scattald in Unst. By the time a formal division process was introduced in the Sheriff Court only the central portion of the scattald remained and required division. The rest had been enclosed previously and was now potential private property. The map by William Sievwright shows several major enclosures or outsets on the scattald (RHP14989 reproduced in Fig. 11). It is possible that these encroachments on the common grazings were the cause of the final division because in a letter to Thomas Edmondston, William Mouat stressed two major elements of the division. First, he asked that the peat moss be laid off and divided separately prior to the division, but more importantly he asked that the enclosures made within the last forty years be included in the total division and not be considered as private property. Although this was a traditional practice William Mouat was obviously very concerned that this might be overlooked during the process (Edmondston-W. Mouat to T. Edmondston Dec. 14, 1823).

¹Positive prescription was introduced in 1617 and "...enacts that persons possessing without interruption for forty years continually in virtue of infestments shall never be challenged by parties pretending prior rights, excepting on the ground of forgery. If possession be proved as far back as memory can reach, it is presumed to extend to the date of the infestment" (Barclay, 1855, 821-2; also Bell, 1826, I, 251).



As previously pointed out, the Shetland landowners and their tenants had used the scattald to a greater or lesser degree for generations as a reserve of land. Several types of encroachments can be identified and these will now be considered in some detail.

Outsets

The practise of taking in outsets or enclosing new crofts from the scattald was an age-old one (Thomson , 1970, 175-6). Among the Bruce of Sumburgh papers there exists a document written about 1780 which lists the lands in the town of Cunningsburgh, Dunrossness. It appears to have been written to sort out the proprietorship in the town prior to a division of runrig in 1786. A careful and unique distinction is made in the document between those rooms considered to be the original ones and those that were called 'setters and garths'.¹ Since Norse times the names setters and garths were given to land in Shetland originally lying outside the town dykes. Often these enclosures were first used as sheep or cattle pastures and

¹The word outset originated from the Old Norse word saeter, setter, or setr and referred to a homestead or farm, although in both the Shetland and the Norse dialect it had the secondary meaning of cattle pastures. In Norway, a form of transhumance was practised on these pastures (or shielings) which served as summer grazings and often a temporary hut was constructed. In Shetland, however, scattalds (like commonities in lowland Scotland - Adams, 1973, 279) were not large enough to support this type of pasturage. All scattald pastures could be reached in a day and therefore, there was no need to practise transhumance. As a result no record of shielings exist for Shetland (Coull, 1968, 152). Livestock grazed in common on the hills tended by tenants who dwelt in the townlands. Whether these pastures were part of a system of transhumance, as in the case of Norway and many parts of Scotland, or just a better quality of hill grazing used throughout the year as in Shetland, they often developed into permanent dwelling places as the settlement pattern intensified. Later, the word saeter or setter became incorporated into placenames and indicated a secondary settlement. (Jakobsen, 1928; Brøgger, 1929, 73; O'Dell, 1939, 246; Thomson, 1970, 175; Jones, 1973, 82; Adams, 1977, 39).

later, as land use intensified some of these became outsets (Thomson, 1970, 175; also Jakobsen, 1897, 105). The unique distinction that this document made between rooms and setters and garths seems to imply that these so-called 'setters and garths' were very early, possibly fifteenth century enclosures (D8/124). In addition, a further distinction is made between these early enclosures and later ones. The document also includes a list entitled 'outsets' and these probably represent much later scattald enclosures of the seventeenth and eighteenth century. Later the terms 'outset' and 'setter' seemed to be used interchangeably, as in the Rental of the Lordship of Shetland...1889 where it was noted that outsets or 'setter lands' "...are numerous and at different periods enclosed from or upon the scattald..." (D8/380, p. 21).

Both the Statistical Account and the New Statistical Account record that from the late eighteenth until the mid-nineteenth century most parishes were undergoing a change in their old settlement pattern as a result of the increasing number of outsets. Enclosures were paralleled by the alternative process of farm subdivision to accommodate Shetland's increasing population (see Ch. 1). In the parishes of Sandsting, North Yell, Delting, Nesting, Northmavine and Walls where fishing was a primary concern, a great number of outsets were established their main purpose being to provide land for the increasing number of fishermen in these areas. The population of Northmavine jumped from a mere 1,009 in 1755 to 2,500 in 1841. To accommodate this population increase farm subdivision was occurring in the townlands while the taking in of outsets was its counterpart in the hill. In the New Statistical Account it was noted that,

"When a tenant finds himself unable to pay his former rent, or when a newly married couple can obtain land in no other way, they fix upon some particular spot in the

common pasture, obtain leave from the principle proprietor of the nearest arable lands and enclose as much ground as they think will support their family; and such an enclosre is called 'an outsett'. Sometimes, the proprietor builds the dwelling house and dykes and charges rent from the time of entry; at other times the tenant builds these, and sits free for seven to nine years" (NSA, XV, 121 - Sandsting and Aithsting).

The creation of outsets often resulted in conflict between the various owners because in the areas where outsets were becoming numerous on the hills, tenants and landowners alike could observe the scattald slowly shrinking in size. This often sparked off a dispute and occasionally the offended party(ies) would petition the local Sheriff Court to put a stop to what they viewed as the informal appropriation of the common grazing. As early as 1793 one of the major landowners on the island of Unst, Thomas Mouat, resenting this haphazard enclosure procedure tried to rectify it by introducing the notion of division. Apparently heritors had been encroaching on the scattald of Baliasta by creating outsets as a way of enlarging their private holdings (Wills, 1975, 381). In the end the division of Baliasta scattald had to wait for a stronger reason: it came in 1823 in the form of mineral rights (Henderson v Cameron - CS46 22/4/1850).

Northmavine being one of the major haaf fishing areas attracted fishermen and their families from other parts of Shetland and to accommodate the newcomers landowners such as Thomas Gifford allowed them to enclose a new farm from the hill land. However, in 1832 Lord Dundas petitioned the Sheriff Court to stop two of Gifford's tenants from enclosing scattald land in Northmavine with the intent to create three new outsets. Gifford had given the two tenants permission to enclose some of the commonity in Sullom scattald to form

three small outsets. The tenants received leases and were to pay no rent for the first ten years "...in consideration of their cultivating the ground and erecting houses, etc. at their own expense..."

Dundas said of Gifford that he,

"...has been in the frequent practise of making appropriations of commonities... A great proportion of the rental of his estate arises from such appropriations... he has a considerable number of outsets. These all consist of the most valuable portions of the scattald contiguous to the seashore and so many of them have been formed as to leave little for further improvement..." (SC12/6/086 Petitn. Lord Dundas v Gifford 1832).

Dundas saw this as just a continuation of the "gripping system" of land acquisition which continued to reduce the scattald size and thus increase the grazing pressure on the remaining scattald. Although most landowners had at some time enclosed scattald land when they were themselves subjected to this they were not so agreeable to the practice.

The ministers of both Delting and Nesting noted in the Statistical Account that their parishes contained a great many outsets which were made by the proprietors to encourage the settlement of young fishermen and their families (OSA, I, 40, 398; XVII, 34, 499). By 1841 the population of Nesting had increased to 2,250 from 1,941 in 1801 and it was said that:

"This ministry contains a greater number of inhabitants, in proportion to the rental land, than any other in Shetland, owing to the exertions of the two principle heritors, Mr. Bruce Stewart of Sumbister and Mr. Hunter of Lunna, in making outsets, or new settlements, on grounds formerly uncultivated" (NSA, XV, 54).

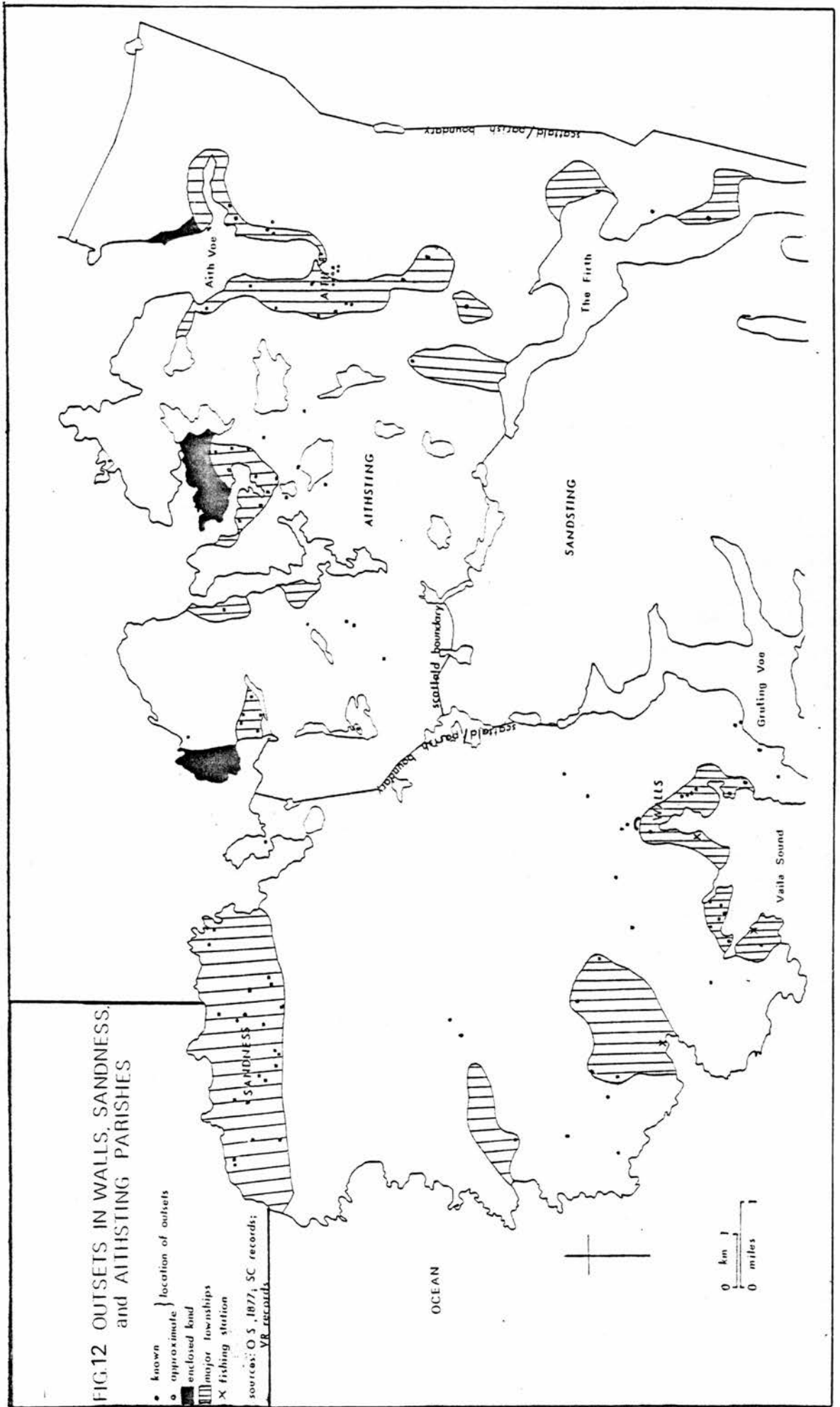
This informal enclosure process was often viewed as unjust, especially if one landowner appeared to be enclosing more than his

fair share of the hill. Early in the nineteenth century inhabitants of the South Nesting scattald had made encroachments and subsequent enclosures on sections of the hill. In March 1800 William Bruce of Symbister (the major landowner in the area) petitioned the sheriff to stop two tenants of the Lunna estate from making an enclosure on part of the commonity known as Aswick. Obviously this proceeding did not stop enclosures from being made by either party because in 1806 the tables were turned when Thomas Leisk, tacksman for the Lunna estate, petitioned to have Bruce of Symbister and another landowner Lawrence Robertson stopped from enclosing part of the same scattald (SC12/6/064 (5494); SC12/6/067 T. Leisk v L. Robertson 1806). Finally it was decided that both parties could enclose a proportional share of the scattald which, if taken to its ultimate end would have resulted in a division of the scattald by mutual agreement out of court. It is quite possible that this is how the small commonity of Aswick was divided. However, a division out of court was not viewed as the solution for the larger scattald of South Nesting because in 1877 it was divided in the Court of Session along with North Nesting scattald (Bruce v Zetland - CS46 52/4/1880).

In Sandsting and Aithsting where cod fishing was becoming increasingly important the minister noted in the New Statistical Account that,

"Besides the original arable land, and the successive additions made to it, there are no fewer than 104 "outsets" in the parishes ... " (NSA, XV, 117).

A few of these have been plotted on Fig. 12, however, this diagram is not designed to provide a fully comprehensive picture of enclosures in the area. Information regarding these enclosures was obtained from numerous Sheriff Court records in addition to the Valuation Rolls



(VR118). While these sources provided the names of the enclosures the first edition Ordnance Survey six-inch maps of 1877 usually provided their location. Nevertheless, a number of outset names were not marked on the Ordnance Survey maps and therefore their exact location in the parish is questionable. In some instances there was doubt as to how many separate farm units were located at each place name. In addition, older outsets were sometimes not distinguished in the Valuation Roll as outsets, especially if they were located on the periphery of the arable land. Often these outsets were eventually absorbed into the arable township land. It is evident from the diagram that the tenants preferred to enclose land as close to the coastal arable land as possible although if necessary hill farms were established instead. Therefore, common locations for outsets were next to the shore, along the town dyke, or out in the hill. However, because the latter lay outwith the confines of the head dyke (and hence the township system) these hill enclosures were more likely to undergo agricultural improvement, as the following quote substantiates:

"The outsets lying by themselves and unfettered by the system of runrig, and being sometimes enclosed, possess by these means greater facilities for improvement than the other" (NSA, XV, 13).

The increased intensity of land use in a relatively poor agricultural area resulted in the landowners and tenants being unreceptive to any newcomers. When in 1833 two farmers in the northern part of Aithsting began to enclose a piece of open undivided hill with the view to making an outset there, Andrew Grierson, the major landowner in Aithsting protested and requested the sheriff to interdict them from doing so. In his petition Grierson stated that the men were "...making every exertion, in order to finish the dyke or

fence, of their intended inclosure, before the matter should come to the Petitioner's knowledge..." Grierson asked that their dykes be removed (SC12/6/085 Petitr. Grierson to Sheriff 1833).

By the 1850s and 1860s outsets were still continuing to be established on the Sandsting scattalds. James Garriock -- a fish curer and merchant at Skeld Voe, Easter Skeld -- had set up a cod fishing station at the head of the voe. To encourage prospective fishermen to settle in the area and to fish the cod banks at Faroe for him, he offered land in Easter and Wester Skeld scattalds in the form of outsets. Occasionally if taken to the extreme the proliferation of outsets on a scattald could lead to scattald division through the Sheriff Court. This appears to have happened in the case of Ungirsta scattald in Unst and again in the case of Walls scattald (Fig. 11; Edmondston - W. Mouat to T. Edmondston Dec. 1823; RHP14989; SC12/53/13, pp. 205-255).

Among the Gardie papers there exists a letter covering the terms or conditions of the tack of an outset on the Garth estate which enlightens us somewhat on the formal process of the granting of an outset. In 1816 Thomas Anderson wrote on behalf of Daniel Robertson to Thomas Mouat in Belmont requesting that Daniel Robertson be given permission to establish an outset in North Yell. Thomas Mouat agreed to do so on Thomas Anderson's recommendation and Daniel Robertson was allowed to have "...an outset on the Hill besouth Cullivoe without the present dike..." (NRA (Scot) 0450/2286). Included in Thomas Mouat's letter were the terms of the tack of the outset at Cullivoe which Daniel Robertson accepted in 1818.

- "1st That he quarry the stones provide the clay and help what more he can towards building a house of 18 feet long 10 feet broad and 5 to 5-1/2 feet high.
- 2 That he pay an adequate rent for what expense I may lay out on the House, which I consider ought to be 7 percent.

- 3 That he shall have the ground free of rent entirely for 3 years on condition of his breaking out and improving as much yearly as in his power.
- 4 That at the expiry of the three years, the Outset shall be viewed by neutral honest men, who shall determine what rent it and the house ought to give for the next three years; which Daniel is to pay and I am willing to accept...I mean to restrain him from . . . spirits. And if he wishes to deal in any merchandise he must first obtain my consent on such terms as we can agree upon..." (NRA (Scot) 0450/2286).

If permission to establish an outset was not acquired, the culprit was often reprimanded or taken to court, as was the case in 1817 between Thomas Mouat and J. Thomason in Ordeal, Unst. Thomason had dared venture to build a house on the Baliasta scattald between Bunes and Voesgarth where Mouat was the largest proprietor. Mouat sent his officer to halt the building of the house and if this failed he threatened that J. Thomason 'would answer him at law' (NRA (Scot) 0450/2351). Previously, Mouat had asked his officer, Thomas Anderson, to "...make civil interruption of two encroachments..." made upon the Clivocast scattald, Unst by throwing down some feals or stones from the encroaching dykes before two lawful witnesses and in the encroachers' presence--if they would attend. Two unlawfully-made outsets enclosed by dykes had been built outside the Clivocast town dykes and Mouat asked that the men remove their dyke after they had reaped their crops (NRA (Scot) 0450/2247).

Under different circumstances outsets seemed to be undertaken for reasons other than to provide land for the increasing population of fishermen in the neighbourhood of the prolific harvests of Shetland waters. The expansion of arable land and the improvement of agriculture in the more agriculturally-oriented parishes of Tingwall, Unst, Bressay, Fetlar and Weisdale also seemed to be a justification

put forth for the establishment of outsets. It is interesting to note that according to the Valuation Roll these areas contained fewer outsets than the predominantly fishing parishes. Possible reasons for this could be that the parishes mentioned not only had more land of potential use for agricultural purposes but they also had better quality land, and therefore it could be put to more intensive use as population pressure on the land increased. This factor alone would have reduced the need to turn to the barren, inhospitable hills as an outlet for the increasing population.

Because of its ideal location adjacent to the haaf fishing grounds and the quality of its agricultural land both fishing and agriculture were important pursuits in the large parish of Dunrossness. The Rental of the Bigton Estate for 1831-2, which included land in Dunrossness, Sandwick and Cunningsburgh, noted that twenty-two outsets had been realized between 1822 and 1832 (GD144/177). Bruce of Symbister, the owner of the estate, was at that time very active in the fishing industry and he encouraged the making of outsets both here and in his Nesting estate (NSA, XV, 54). Another landowner active in the fishing industry as well as in agriculture was John Bruce of Sumburgh. In 1834 Sir Arthur Nicolson along with some other landowners petitioned the court to stop two tenants of the Sumburgh estate from enclosing a valuable portion of the scattald just to the north of the dyke of Starkigarth and Pundstow in Cunningsburgh. The defendants were residents of Gord, North Cunningsburgh and they were enlarging their meagre holdings by enclosing land (D8/318/3 Petitn. Nicolson and others v L. Williamson and J. Christie 1834).

In Fladdabister, the town lying to the north of Cunningsburgh, a tenant by the name of Henry Sinclair appropriated "...a consider-

able space of ground belonging to the said scattald lying outside and adjoining to the hill dyke of said town..." and enclosed it with a dyke in 1822. The landowners overlooked the creation of this outset but in 1824 when Sinclair thought it "...proper to commence taking in and enclosing a further price of the said common adjoining to the piece above mentioned..." the proprietors put a stop to it by submitting a petition to the court (D6/124/15 Petitn. Bruce, Heddell, Williamson, et al. v Sinclair 1824).

Expansion of the Townlands

In addition to enclosing outsets as small separate farms the expansion of arable land was also accomplished by the outward extension of the town dykes. Several cases exist where the heritors of a town would enter into an agreement whereby they would mutually extend their town dykes outwards and enclose a section of the common land lying adjacent to the dykes. Thereafter they would subdivide the ground thus enclosed among themselves according to their respective interests. In this way large sections of the open, undivided hill pasture were enclosed, improved and cultivated, thus enlarging the arable townlands and in some cases significantly reducing the size of the scattald (see Laxfirth - D6/43/1; Tronafirth - Spence v Dundas - CS46 136/3/1840 Proff 1835; Norwick - NRA(Scot) 0450/2258 for examples of this.)

Both the towns of Cullivoe and Houlland in North Yell underwent several enlargements since the proprietors had decided to extend the dykes outwards so as to increase the arable potential of the towns. In 1818 a plan was made for the Garth estate of the town of Cullivoe showing fields of a regular shape enclosed in a crescent shape around the old stead of Cullivoe. In 1833 a further map was made of Cullivoe and its surrounding towns and this time there was talk of mutually

enclosing another part of the section of the scattald which was then to be divided among the towns involved in proportion to the merklands of each (Garth maps - "A Plan of Cullivoe with the new enclosures taken in Nov. 1818"; "A Rough Sketch of the Towns and Hill dykes of Cullivoe, Kellister and Backhouse Jan. 1833").

Occasionally the extension of the town lands resulted in disputes over the ownership of the newly enclosed land and over its haphazard method of enclosure. Perhaps the most drawn out debate over town expansion involved the town of Houlland. The heritors in the town had agreed to extend the dykes outward in 1774 and in 1796 the new portion of arable land was enclosed and divided among the proprietors according to their holdings. Other enclosures continued to be made on the scattald contiguous to the hill dykes at various times after 1796 (Fig. 13; Spence v Dundas - CS46 136/3/1840 Proof 1835). The haphazardness of the process upset one of the heritors even though he had also enclosed land at various times. In 1824 Thomas Irvine expressed his notions on how enclosure should take place.

"First, as a general principle all the towns in a scathold in making advances upon that scathold ought to preserve the ratio of their respective lands and, enclosing to any particular town should not be partial nor by patches, but by the general consent of the heritors and with a reasonable degree of foresight regarding the ground so enclosed...The ground so enclosed...should be equitably divided upon the principles of valuation, or equalizing quality by quantity..."
(D6/2/8 Irvine to J. Mouat 1824).

Regardless of Irvine's convictions Lord Dundas's tenants continued to enclose on the scattald of Houlland. In 1831 Thomas again commented,

"The arrangement or agreement in 1796 was never intended to have any influence but

FIG.13

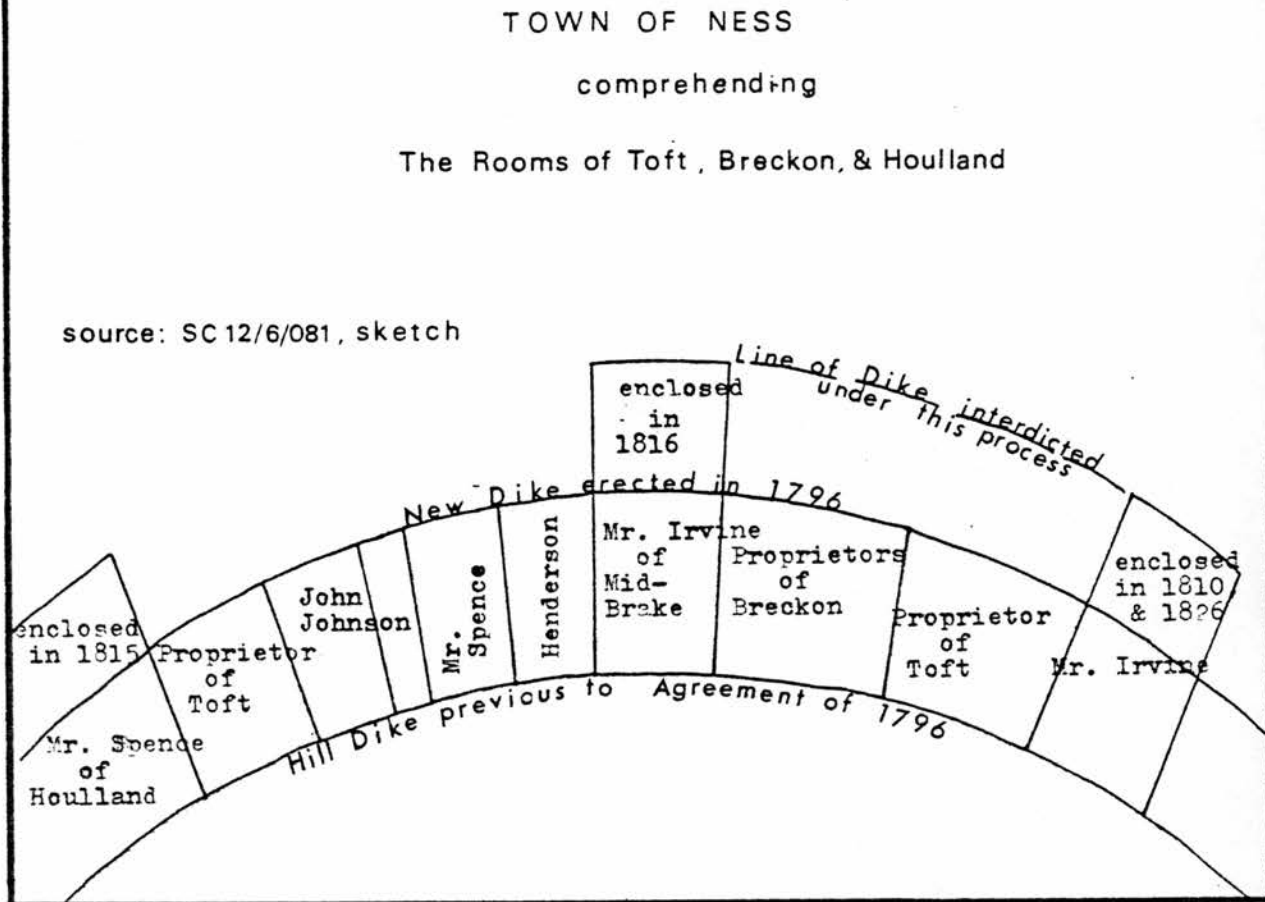
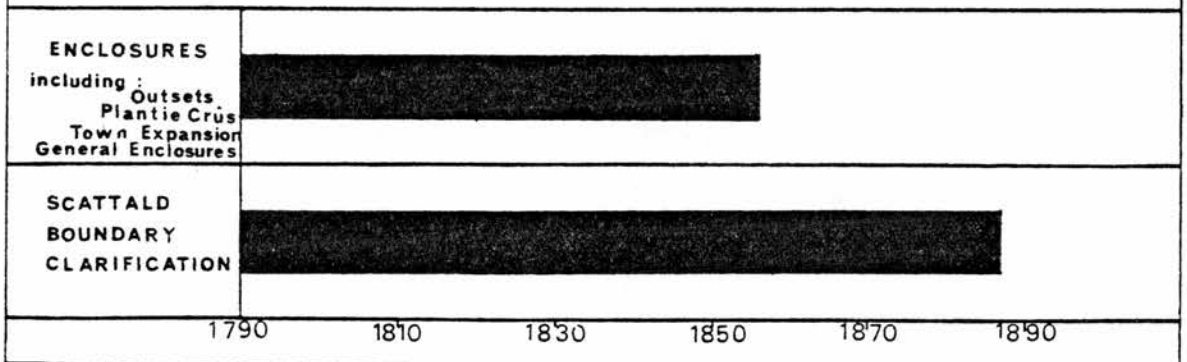


FIG:14

TIME SPAN OF INFORMAL DIVISIONS



over the ground then enclosed...it made no allotments beyond the extent enclosed at the time...it was not to go on in perpetuity -- which in the process of time, would amount to a division of the whole scathold, a thing not yet heard of neither contemplated in 1796" (D6/2/8 Notes upon the answers for Dundas' tenants by T. Irvine 1831).

Finally, Thomas Irvine petitioned the court to stop these tenants from enclosing and in a letter to the solicitor, James Greig, Thomas said that he intended to propose a division of the whole scattald to the other heritors to stop this informal enclosure process (SC 12/6/081 Petitn. Irvine v. J. Spence and J. Moar 1831, Answers for Dundas and others 1831; D6/2/8 T. Irvine to J. Grieg 1831). An unsuccessful attempt was made in 1833 to settle the Houlland scattald division out of court. Letters were written by the proprietors to Irvine regarding the division and Mr. William Pole was chosen to measure the scattald. However, the informal division attempt proved unsuccessful and the division finally went through the Court of Session in 1858 (T1 390/25).

These various informal methods of enclosing sections of the scattald represented an alternative to the costly formal division process, but as the number of recorded disputes indicate informal divisions were never viewed as a very satisfactory or equal method of dividing the scattalds. Nevertheless, prior to the landowners' increased interest in agriculture they provided an easy, inexpensive and fast alternative to land division by the lengthy court procedure and also provided a safety valve for the increasing population. By their very nature informal enclosures generally occurred earlier than formal divisions and were intended either as a commencement of a progressive plan of enclosure -- as was the case in Houlland, Yell-- or simply as an ad hoc process of land enclosure as land was

needed. By 1850 most informal enclosures had ceased although scattald boundary clarification continued for three more decades. This process was a necessary preliminary to formal scattald division through the Scottish courts (Fig. 14).

Scattald Boundary Clarification

Formal divisions required that the scattald boundaries be undisputed and clearly fixed. However, at the beginning of the nineteenth century none of the scattalds were fenced and in many places the exact limits of the scattald were not even known (D8/380, p.22). The landowners believed that they owned the hill pastures but the extent of each laird's share had not yet been determined. The system had no restrictions on the right of commonage hence overgrazing and misuse often occurred on the scattald. As a result, disputes ensued over scattald ownership as well as over the heritors' rights of useage because of the ill-defined boundaries. To settle these arguments the scattald marches were perambulated by either a legal personage, such as the sheriff or a solicitor, or by a surveyor.

Just such a perambulation occurred some years prior to 1826 when Arthur Nicolson of Lochend petitioned the sheriff for a perambulation of the marches between Fladdabister and North Cunningburgh in order that differences of opinion could be settled (D6/124/21). It is quite possible that this difference of opinion resulted when the tenants on both the Symbister and Sumburgh estates enclosed land on the scattald, which they did frequently since their landowners condoned the action—if not actively encouraged it (NSA, XV, 54). In 1887 the Nicolson estate was again involved in a dispute over scattald ownership, this time in Fetlar. As proprietor of the Lambhoga scattald, Nicolson had erected a fence between the said scattald and

the scattald of Tresta, Tow and Velzie but in 1887 Reverend Campbell destroyed the fence. Campbell felt that he had a right to use the scattald too because he did not consider the area to be a separate or solely-owned scattald. In retaliation Nicolson petitioned the court to have the minister not only replace the fence but also to cease trespassing on his property (SC12/6/136 Petitr. Nicolson v Reverend J. Campbell 1887; Nicolson - 140 Nicolson v Campbell 1889).

A similar case arose in 1824 and dealt with a dispute over whether a pasture was a separate and distinct scattald. A solicitor, William Sievwright, was given the task of perambulating the boundaries of Windhouse scattald in Yell. He was to determine whether the small, land-locked hoga,¹ locally named Wilhelmina, was to be considered a separate scattald or merely part of the larger scattald of Windhouse. After lengthy discussions with the conterminous landowners and tenants with rights of useage on the hill, he decided that the pasture was a distinct scattald over which conterminous scattald proprietors had a right of pasturage (Garth - Report of Perambulation... 2 Oct. 1824).

Occasionally scattalds were surveyed and boundaries were marked as a preliminary procedure to estate consolidation so that the proprietors would be fully aware of their proportional share of the land. This occurred at Sound or Shore, Unst in 1838 and over the succeeding fourteen years the Garth estate managed to buy out the other heritors thus leaving them the sole owners of the scattald.² Once a scattald was solely owned the proprietor often

¹"The Hoga...is that part of the scattald next adjacent to the towns" (D8/380 p. 22). Also see Appendix B.

²A comparison between the List of Proprietors...1825 and a List of Title Deeds...1852 (Garth), indicates that over the years the Garth estate had brought up all the townlands in the scattald of Sound, Unst. Also see ADM - Survey of Sound Scattald from James Mouat 1838.

wanted to know the quality and extent of his holding and therefore he would commission a land surveyor to survey and give the boundary measurements of his scattald. In 1854 the Misses Irvine of Culswick in Sandsting commissioned the land surveyor, Thomas Irvine, to do just that. In this way the Misses Irvine would have a clear understanding of the extent of their scattald (TI 392/22, 394/2).

Often landowners would not only commission that a survey of the scattald be done, but also that a map be made of the extent and value of the scattald. The boundaries of the scattald of Brunt Hamarsland, Girlsta, and Chalderness in Tingwall were established in 1850 by a Decree of Declarator but in 1854 Henry Cheyne -- a Shetlander, an Edinburgh lawyer, and the sole owner of the scattald of these townships -- wrote to Andrew D. Mathewson, surveyor in Yell, asking him to measure and make a "cheap plan" of the contents of his scattald. In this way Cheyne, an absentee landlord, could determine the quality and quantity of his possessions (ADM - Excerpt from Decree...1850 by W. Sievwright, H. Cheyne to ADM - 1854).

As a preliminary step to both consolidation of property via excambions and land sales and the formal and legal divisions of the scattald by the court, heritors of several scattalds voiced the decision to clarify and fix the scattald boundaries once and for all. The proprietors of Trebister in the parish of Lerwick made a submission to determine the boundaries of their scattald prior to ~~its division by the Court of Session~~ since doubts concerning these boundaries had arisen among the heritors (SC 12/53/9; D6/51). In 1850 Thomas Irvine (land surveyor in Yell) was commissioned to perambulate the Fetlar scattald boundaries and to determine their marches or boundaries. However, the division of the scattalds did not occur until 1872 and then the process was merely tidying up

the ownership of the island after a slow process of informal division had accomplished most of it (see pp. 111-16 below; T1 388/131, 137, 138, 171).

Scattald boundary clarification was being considered just prior to the division of the large commonity of Channerwick in Dunrossness. In a letter written by William Sievwright in 1875, he asked that all scattald boundaries from Channerwick south, be "...arranged without recourse to judicial proceedings...If this is done as a whole the advantage to all parties will be considerable..." (D8/418 W. Sievwright to Messrs. Duncan and Galloway Mar. 1875). As time passed and the cost of a court process increased, the more settlements that could be accomplished amicably out of court, the better. Defining the scattald in question was the first step. Obviously, if this could be accomplished privately the savings in legal expenses would be considerable, as William Sievwright rightly pointed out to representatives of the other involved heritors.

As early as 1793 the sheriff had suggested to the heritors involved in a dispute over landownership in Weisdale that Shetland landowners should fix or clarify their boundaries to avoid arguments. There were those proprietors who had always enclosed and improved their properties when convenient while there were others who remained adamant believers that the scattald should remain common until the heritors had agreed on a division (SC 12/6/063 (5430)). As a result of this difference of opinion the informal method of enclosing land at will often ended in a dispute. As land values increased and agricultural improvements got underway landowners began to view this ad hoc method of hill enclosure increasingly as inadequate and inaccurate. Both tenants and landowners displayed displeasure at the appearance of hill enclosures for they curtailed their hill pasture thereby rendering their farms less valuable. Nevertheless, the

importance of this informal method of land allocation cannot be underestimated, especially in the earlier years of the nineteenth century. Its procedure was uncomplicated and its cost was nothing and if viewed as a preliminary step to formal enclosure, it not only increased cultivated land in Shetland but as a corollary it also reduced the amount of scattald land left for the legal division process.

Consolidation by Excambions and Land Sales

Excambions and sales of land between landowners provided a picture of a fluid real estate market in Shetland during the late eighteenth and early nineteenth centuries. Increasingly, there was evidence of a conscious move by the lairds to consolidate their holdings. This process provided an alternative to legal division because if the number of landowners in a particular scattald could be reduced then the necessity for a formal division was also reduced. The quintessential situation occurred when a laird managed to acquire all the townlands in the scattald; this would make him its sole owner and a division was no longer necessary. However, for the most part consolidation merely tidied up landownership facilitating uncomplicated legal divisions. By the end of the nineteenth century approximately twenty-five percent of Shetland's scattalds were owned by one proprietor who had either bought out or had legally exchanged land with the other owners (Fig. 15; Table 2).

Perhaps the island of Fetlar is the best example of consolidation through excambions and land sales which obviated the necessity of a division to a great extent. Lord Zetland and Sir Arthur Nicolson were the two major proprietors of the island and by the mid-nineteenth century they owned twenty-four percent and seventy-two percent respectively. Because of the segmented ownership pat-

FIG. 15

Scattalds Owned by One Person

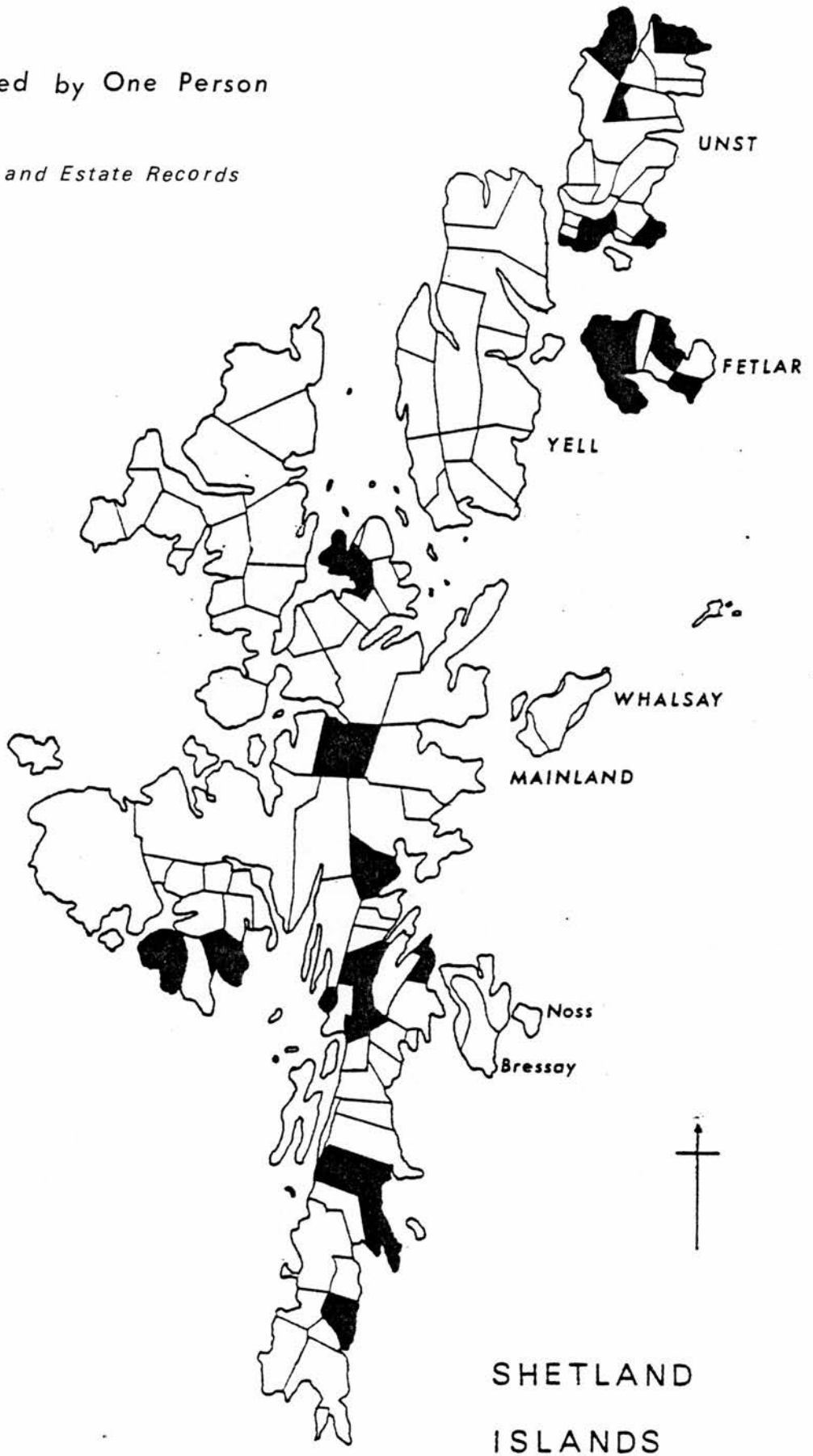
sources : CS, SC, and Estate Records

Table: 2

SCATTALDS OWNED BY ONE PROPRIETOR

<u>Parish</u>	<u>Scattald</u>
UNST	Burrafirth (4) Cliff (6) Queyhouse (5) Muness (17) Sound (20) Wadbister (23) Heogaland & Mould (24) Hoversta & Mainland (19)
FETLAR	Funzie (26) Grutton (27) Russater (30) Urie (31) Oddsta (32) Dale (33) Lambhoga (34)
DELTING	Caldbackness (62) Garth (63) South Olnafirth (72)
SANDSTING	Easter Skeld (103) Reawick (104) Culswick (106)
TINGWALL	Girlsta or Brunt Hamarsland (80) Veensgarth (88) Griesta (89) Burwick (90) Upper Scalloway (94) Asta (95)
LERWICK	Grimesta (109)
DUNROSSNESS	Sandwick & Leebotten (119) Clumlie (124)

Note: Numbers refer to Scattald Map, FIG.8

Sources: SC, CS , Estate Records, RHP

tern that existed in the Fetlar scattalds, excambions with the view to estate consolidation viable, economic, and practical. During the first part of the nineteenth century, some excambions were in evidence but it was predominantly sales of land that characterized the land dealings between Lord Zetland and Arthur Nicolson as well as among the 'peerie' lairds, on an informal level. An Inventory of Title Deeds and a collection of letters illustrate that both Zetland and Nicolson, but particularly Nicolson, were making a conscious effort to consolidate their holdings within certain scattalds (Nicolson - 134, 140). The scattald of Russater provides an ideal example of this process.

In the scattald of Russater (which contained the rooms of Russater, Culbinstoft, Crosbister and Kirkhouse) five transactions made in the nineteenth century over a period of fifty-five years were necessary before Sir Arthur Nicolson owned the scattald outright. Initially, only the room of Culbinstoft was owned solely by the Nicolsons. The earliest transaction occurred in 1820 when a merchant and minor laird in the room of Russater by the name of Gilbert Smith sold and later conveyed to the Nicolsons by a legal deed his five merks of land in the room. In 1837 one George Henderson conveyed to Sir Arthur not only his one merk of land in the room of Crosbister but also a merk in each of the scattalds of Urie and Dale. By this time the only room in the scattald which the Nicolson family did not own was Kirkhouse and during the following years they slowly accumulated the rest of the merks in that room. In 1837, 1851 and again in the 1860s three different proprietors sold out to Nicolson leaving only Lord Zetland with his two merks of land in the room, and Arthur Nicolson as owners. In 1875 as part of an extensive excambion, Lord Zetland also relinquished his lands to Sir Arthur. The

townlands of Russater with its adjacent scattald now belonged solely to the Nicolson estate, primarily as a result of a conscious consolidation effort on the part of Sir Arthur (Nicolson - 140 Inventory of Title Deeds).

The exchange of townlands within various other scattalds in Fetlar was also being negotiated by the proprietors at this time but the complete resolution of land proprietorship came during the division of the Fetlar scattalds in the Court of Session between 1872 and 1882. A summons was raised in 1872 for the division of the Fetlar scattalds. To save time, money, and the expense of a perambulation it was decided to use the plans and findings of a private survey that had been done by Mr. Miller, civil engineer for the Earl of Zetland, along with a Decree of Declarator of Marches done in 1850 by Thomas Irvine. Nevertheless, the division did not progress very far. In 1875 Lady Nicolson raised objections against the surveyor's plans because they did not emphasize the consolidation of each proprietor's lands adjacent to their townlands within each scattald. She questioned the competence of such a surveyor, "...when he can be satisfied with such an ill contrived, inconvenient and unshapely allocation as he had made" (RHP6163/2:7). The unfortunate land surveyor thus referred to was John D. Miller of Kirkwall, Orkney. Lady Nicolson's criticism was followed by the suggestion that since she and the Earl of Zetland owned segments of many scattalds, excambions followed by allotment consolidation seemed more practical. And so between 1875 and 1880 the division of the Fetlar scattalds was delayed allowing an extensive excambion to be arranged extrajudicially which would according to William Sievwright, agent for the Nicolson estate, obviate the necessity of a division to a great extent (Nicolson - 140 Joint Minute; CS249/7694A; CS249/7964B Minutes of

Procedure 1881, p. 35).

A Joint Letter written in July 1875 stated that the excambion was to proceed on the footing that the Earl of Zetland would convey to Lady Nicolson the whole of his infield lands in the scattalds of Oddsta, Urie, Dale, Russater and Grutton with the outsets and the rights of commony effeiring thereto; while Lady Nicolson was to convey to the Earl of Zetland her infield lands of Littlaland, Baillieford and Houll in Funzie scattald with the outsets and rights of commony as well as such portions of her infield lands of Toftan and Strand in the commony of Strand as would complete the equivalent (Nicolson - 140; also see RHP 6163/2:6). By 1880 the excambion of land between the parties had rendered the original division process unnecessary since the lairds had been able to consolidate their holdings within the various scattalds. As a result the scattalds of Oddsta, Dale, Grutton, Urie, Russater and Funzie no longer required formal division because the extensive excambions had allowed the landowners to acquire sole ownership of these scattalds. Oddsta, Dale, Grutton, Urie and Russater along with Lambhoga were now owned by Lady Nicolson while the Earl of Zetland owned Funzie. Hence, the only scattalds remaining that required formal division were Aith, Houbie and Strand. In these scattalds excambions managed merely to tidy up ownership but this in turn had facilitated an uncomplicated division process via the Court of Session in 1882.

Consolidation by excambions and land sales did not just occur in Fetlar although it is one of the more clearly documented cases. In Unst both the Edmondston and the Garth families were actively consolidating their holdings in this way. The large scattald of Burrafirth on the north western tip of Unst became the sole property of the Edmondstons of Bunes following an excambion with the Earl

of Zetland in 1870. By the end of the nineteenth century the Garth estate was not only the sole owner of six scattalds in Unst but it had also managed to acquire large proportions of several of the other scattalds on the island. By 1852 the Garth estate had bought up most of the land in the scattald of Sandwick, Framford and Snabrough including thirty-four out of forty merks in Framford, fifty-three out of seventy-three merks in Sandwick, and thirty-four out of thirty-six merks in Snabrough, the remainder being held by Lord Dundas (Garth - compare List of Proprietors...1825 with List of Title Deeds....1852). In the scattald of Caldback the Garth estate was one of the three major proprietors.

In the parish of Tingwall the land was predominantly owned by the Hay family. Through excambions and buying up land over the years, the family managed to acquire four scattalds all of which they turned into very profitable farms. In addition, they also owned substantial shares in most of the other scattalds. Proprietors in other parishes such as Mr. Garriock of Reawick and the Bruces of Sumburgh were also actively consolidating their estates by this method during the nineteenth century. This informal method of land allocation was simple and straightforward, requiring only that the involved parties arrive at a mutually beneficial agreement. If this was possible then the land ownership of the scattald was often simplified, if not completely resolved.

The informal reorganization of the scattald lands which occurred predominantly during the late eighteenth and the first half of the nineteenth centuries served as a forerunner to the legal divisions that were to follow. These early land reforms in Shetland including ad hoc enclosures and excambions and sales of land were all pursued with the purpose of increasing, improving, and consolidating the

the estates as well as clarifying the landowners' proprietorship of the hill grazings. These methods of dealing with the preliminary clarification and resolution of proprietorship of Shetland's scat-talds served the purposes of the lairds for the better part of half a century, but as they became impatient to organize their estates to meet the challenges offered by the improved socio-economic conditions of the latter half of the nineteenth century, these progressive and far-sighted lairds looked to the formal, legal divisions as a safe, sure process of land allocation.

CHAPTER 6

REASONS FOR FORMAL DIVISIONS

Prior to the nineteenth century divisions through either the Sheriff Court or the Court of Session were almost non-existent. Little use was made of the Sheriff Court division procedure in Shetland while scattald divisions by the Court of Session did not occur until the nineteenth century, almost a full century after the application of the Act 1695 to the commonties of Scotland. The answer to why there was such a delay in the implementation of the division act in Shetland and hence the almost total lack of agricultural improvement, is to be found in the socio-economic conditions that prevailed in Shetland during the eighteenth and early nineteenth centuries.¹

Briefly, the geographical units of both subsistence and commercial production were first, the townships with their associated scattalds and second, the offshore fishing grounds. Therefore, the most efficient and rational method for managing the economy was to combine subsistence agriculture with the fishing industry. However, landowners perceived the economic value of land primarily in light of its proximity to fishing grounds so that increasing numbers of fishermen could be accommodated, rather than for the productive value of the land (Goodlad, 1971, 103; Henderson, 1969, 13). As a result agricultural production and activity remained at a subsistence level and lagged behind while the fisheries expanded and flourished. The fisheries became the prime concern of the Shetland landowners and merchants who concentrated their efforts on the potentials of the sea and the advancement of the fishing industry while the agricultural

¹ Smith (1972, Chs. 4, 5 specifically) produced an extensive study which was primarily concerned with the socio-economic conditions in Shetland and the development of trade.

sector was neglected.

However, as early as 1815 some Shetlanders were conscious of the potential advantages to be gained by altering the traditional system of scattald proprietorship (NRA (Scot) 0450/2253). In an effort to rid themselves of the encumbrance of an archaic system of communal ownership which lent itself to land abuse--especially in light of increasing demands for agricultural products--the Shetland lairds began to clarify their land proprietorship in a legal sense. As a preliminary step to terminating the old agricultural order the resolution of land proprietorship in the form of scattald divisions began at the turn of the nineteenth century and accelerated after 1850. Between 1850 and 1880 about fifty scattalds underwent legal division in the courts representing a significant break with traditional communal ownership in favour of private property. In Shetland the motivation for change was primarily ideological reflecting the concept of private property and ownership which had swept through Britain during the previous century. (Refer to Dr. I.H. Adams' Ph. D. thesis, University of Edinburgh, 1967). Although the ultimate effect on the land and agricultural system varied greatly between regions both in terms of the type and the extent of change, the legal and institutional change brought about by scattald divisions in the Sheriff Court and the Court of Session was important and occupied men's minds in Shetland for the better part of the century.

There was no single reason as to why the proprietors of a scattald would decide that it was in their best interest to divide the common grazings or hill pasture but all the reasons reflected the changing economic conditions in Shetland and a changing consciousness with respect to land. Basically, there were two main themes that influenced the division of scattalds in Shetland. As attitudes

towards land changed it became viewed by some as a source of conflict and by others as an economic asset.

On one hand, landowners saw divisions as 'an end in itself'. When conflicts resulting from the common grazing system developed, scattald division by the Court of Session or the Sheriff Court was often necessary to sort out land ownership. In several cases divisions stemmed from a desire to prevent the abuse of the scattald by individuals utilizing it to their own advantage. William Hay stressed this in a letter to the surveyor, Thomas Irvine:

"...the common was rapidly going to destruction --- and that no system would save it but by subdividing and allocating the common and making each tenant responsible for the share allotted to the farm occupied by him --- while every man claims an equal right to cut feal and truck on the common neither a five shift rotation nor the most stringent regulations will prevent them scalping --- while it is every man's gain to take and no man's interest to refrain" (TI 394/30 W. Hay to T. Irvine 1850).

Another motive concerned major versus minor lairds: a landlord's recourse to law was simply a defensive tactic to rescue his share of the scattald before it was illegally enclosed by his more powerful neighbours. Motives for these divisions took a variety of forms including disputes over grazing, fishing, peat cutting or mineral rights; the urban expansion of Lerwick; and finally, illegal scattald enclosures. In many cases the problem of land proprietorship was solved by the legal mechanism of land division, but the land was only theoretically divided (Chs. 7, 8). Because these divisions resulted from conflict over usage and therefore were seen as an end in themselves, physical divisions in the form of dykes were not thought to be necessary --- indeed, in the case of most of Shetland's

rough landscape, dykes would have seemed an extravagance.¹

On the other hand division was seen as 'a means to an end'. Some of the landowners desired greater land use efficiency but multiple ownership of the scattald complicated matters. Nevertheless, as the attitudes towards land altered from regarding it as a status symbol to that of a mode of producing wealth, this evolution of change became finalized by the division of commonry because division offered a mechanism for changing the landscape (Adams, 1967, 67). Taken to its extreme the whole division process may have seemed to the landowners to be a panacea for the economic problems of the islands. A wave of optimism on the part of the landowners was being reflected in their changing philosophy with respect to how they viewed their land and divisions were seen by some to be a necessary prerequisite to the perceived agricultural improvements.

As early as 1815 William Mouat founded 'The Shetland Society' whose membership included landlords interested in improvement. The society urged for the division of commonry as well as the valuation of teinds and the proper herding of livestock on the commonry (NRA (Scot) 0450/2253). It was thought that an estate could become more manageable and marketable if, through excambions and divisions, the holdings could be consolidated. As transportation and communications with Shetland improved the lairds began to recognize the possibilities of sheep farming as a viable use of the scattald and this offered another incentive for division. So that the individual

¹ Some documented cases where divisions were not immediately followed by physical division of the landscape also exist for Scotland. In the county of Kinross, divisions occurred in the eighteenth century but many of these were not enclosed until the next century. This occurred at Bishop Hill. It was divided in 1729 but not enclosed until the following century. Cleish common in the same county was divided in 1801, however, only some of the land was ever enclosed (personal communication - D. Munro, local historian and geography Ph.D. candidate, University of Edinburgh, October, 1979).

lairds could carry out what they perceived as improvements the establishment of private ownership in a legal as well as in a practical sense needed to be accomplished, and to do so required that the old agricultural order be reorganized. Scattald divisions were seen as the necessary extension of the landowners' changing consciousness towards the land. Accordingly, landowners with a burst of individualism divided their scattalds; and with the thought of a changed landscape in mind as an end product they occasionally consummated these divisions with a physical delineation of the land by ditches, dykes or wire fences (Ch. 13).

Documentary evidence as to why most of the sixty-nine scattald divisions in Shetland were undertaken seldom exists. Thus, in just a few instances has the motivation been stated and one cannot say with certainty that they are truly representative of the rest. Examples of each of these reasons are discussed in more detail in the following paragraphs.

Grazing Rights

As landowners were becoming more aware of the problem of overstocking the scattalds with animals they began to see the need for improvement. This change in attitude towards hill grazing rights was often the basis for dispute among the lairds but usually they were settled out of court or by petition in the Sheriff Court. Occasionally these methods of settlement were not sufficient and then the dispute was handled by the Court of Session in the form of a division, as in the case of the Ness of Hillswick. In 1856 a dispute of this nature arose between Gifford of Busta (as represented by his trustee Mr. Cheyne) and the minister. The minister had tried to extend his stock beyond the number corresponding to his interests and refused to restrict his exercise of the right of pasturage. Therefore Mr. Cheyne instigated a division process so that the parties' rights

could be ascertained and the extent of ground each was entitled to be fixed (Cheyne v Zetland - CS46 34/1/1861). In this instance the dispute regarding grazing rights was settled by a scattald division.

Fishing Rights

Land began to be viewed as an economic asset if it happened to be in close proximity to the major fishing areas as was the case with the land in Northmavine. From 1791 to 1797 a dispute took place between two landowners, Gideon Gifford and Gilbert Henderson in the scattald of Gluss and Bardister over the construction of a haaf fishing booth by Henderson. Gifford, the largest landowners in the area, apparently resented Henderson's erection of a booth perhaps because it might offer him competition. As a result both parties agreed to a division of the whole commonty to avoid any further disputes in future regarding the heritors' different properties and possessions in the commonty. Division in this case provided a legal clarification of rights which could then be translated into fishing rights (SC12/6/050 (3821); GD144/119 Draft Submission for dividing the commonty of Gluss and Bardister...1797; SC12/53/7 Petitn. Giffords' respecting Gluss scattald 1797).

Peat Cutting Rights

Fitful Head in the south of the Mainland was the first scattald to be divided through the Court of Session using the Act of Division of Commonty, 1695. A dispute arose between the two landowners, Mr. Grierson of Quendale and John Bruce of Sumburgh, over the issue of peat cutting rights in the hill. Grierson supported the idea that in the Fitful Head scattald common pasturage existed but this was not to be confused as being synonymous with common property. His reasoning was that since the mid-1700s land in the area had been enclosed by tenants and proprietors either as outsets or as enlargements of individual farms. Since the land was rented and possessed

by individuals it could not be called a common even though it was owned by all the landowners. Grierson felt that Bruce's tenants were now cutting peats on his exclusive property and so he refused them entry. In retaliation Bruce took the case to court and requested a division. The scattald division was completed in 1826 and not only did Bruce receive peat rights for his tenants in the area, but it was also decided that his tenants on the Isle of Noss also had a 'full admitted right of property' on Fitful Head scattald. Since the peat moss fell in Grierson's allotment Bruce was given a surface right to his legal share of it but when the peat was exhausted the soil then became the sole property of Grierson. The legal division of the scattald established the private ownership of the hill but confirmed the rights of each proprietor's tenants to enjoy rights of servitude such as peat cutting (GD144/130 Scheme of Division of Fitful Head Sept. 1825; Bruce v Grierson CS44 11/7/1826).

Another case involving peat moss arose in 1850 when a summons of division was raised concerning the scattald of Trebister in the parish of Lerwick. Diminishing peat reserves required that the proprietorship of the scattald be clarified to ensure that each laird received their rightful share of what remained. During the division the surveyor, Thomas Irvine, paid special attention to the peats as well as to the "...relative worth and value of each section with respect to the surface, soil and subsoil, position and susceptibility of improvement" (Greig v Zetland - CS46 10/9/1859 Report of Valuation 1857; also see RHP 9110, 9111; TI 394/29; D6/120/10). In 1859 both the hill and the peat moss were successfully divided among the heritors.

Mineral Rights

"Professor Robert Jamieson (author of mineralogy of the Scot-

tish Islands etc.) discovered chromate in Unst more than 20 years (i.e. about 1792) before Hibbert. Hibbert, on a mineralogical tour of Shetland in 1817 re-discovered it in Unst." And on his return to the island in 1818 while staying at Bunes with Thomas Edmondston he told the rest of the major proprietors that "...only Thomas Edmondston took an active interest..." (Edmondston - Notes on the History of Chromate working in Unst by L.D. Edmondston 19 Dec. 1968). In addition, Edmondston "...was the first proprietor who found a market for that mineral and called the attention of the other proprietors to its value" (Edmondston-Memorial and Queries for T. Edmondston Esq. of Bunes 1839). By 1823 Edmondston had succeeded in interesting various manufacturers in the ore "...and he then approached William Mouat, later of Garth which was the largest estate in Unst, with proposals to work the mineral in Baliasta and Haraldswick scattalds..." with Mouat as trustee (Edmondston - Notes on..., 1968). He was trustee till his death in 1836 and his nephew, T.M. Cameron Mouat succeeded him as trustee till his death in 1839. During this time the chromate accounts and private sales showed sale proceeds of about £28-30,000.

In 1839 a Trust Deed was executed and William Spence of Greenfield was appointed trustee. Thomas Edmondston was not associated with the Trust. Since the discovery of the ore, he had been quarrying the ore that existed on his own property. However, he desired that his share of the chromate from the scattald be measured out at the quarry mouth so that he could sell it along with the chromate he had quarried on his own property. Although Edmondston wished to keep the action out of court he was willing if necessary to "...pursue a division of the scattalds..." (Edmondston-Memorial...1839). After some argument it was agreed that he could have his

share measured out at the quarry.

"In this same year 1839 G.[ilbert] S.[pence] ['Superintendent' for organizing and supervising quarry operations] committed slander by accusing T.E. in a letter of stealing Chromate from the Scattalds. T.E. took him to the Court of Session over this, but before the case went very far, G.S. confessed he had told lies and made an abject public confession and apology to T.E." (Edmondston-Notes on ...1968).

Meanwhile, the division of Haroldswick was being carried out and later in 1846 the scattald of Baliasta was also to start its division procedure. The proprietors in these scattalds realized the economic potential of the ore since "At the time of its initial exploitation it was the only major source in Europe and fetched high prices" (Smith, 1972, 210). The proprietors decided that since the share of the profits gleaned from mining the ore corresponded to their ownership in the hill, they had better have the scattald legally divided so that there would be no more questions regarding each proprietor's share in the profits. This find resulted in one of the speediest divisions of commonalty ever known in Shetland to solve the mineral rights of the scattald. As early as 1793 scattald divisions had been suggested as an agricultural improvement "...but it took the promise of a new source of real wealth to stimulate these lairds to action" (Wills, 1975, 158). It was decided that the minerals would remain as common property belonging to all those with an interest in the commonalty and that each proprietor would receive a proportion of the profits corresponding to their interest. The proprietors of the land where the minerals were to be worked would be entitled to compensation for the surface damage produced during the acquisition of the mineral. Therefore, 1840 saw the division of Haroldswick completed and in 1842 the major quarry at Nikka Vord was opened (Spence v Dundas - CS46 136/3/1840). Only Haroldswick and Baliasta scattalds appear

to have been divided with mineral rights as the underlying motive.

Urban Expansion

A unique case of urban expansion resulted in one division. The scattald of Sound lying to the west of Lerwick was divided in 1890 because the heritors were concerned with clarifying their holdings in view of the expansion of both the town of Lerwick and the large estate of Hayfield which lay in the vicinity. Both were encroaching increasingly on the common lands (NSA, XV, 3; SC 12/53/15 pp. 32-54).

'Peerie' v 'Muckle' Lairds

Occasionally disputes arose between major and minor landowners over the quantity of hill land they could enclose informally. In 1818 Hosea Hoseason, a small landowner, wanted the Sandwick scattald in North Yell divided because of the unfair treatment minor lairds received in these matters. Often, according to Mr. Hoseason, the large landowners would authorize their tenants to enclose parts of the scattald but when peerie lairds followed their example they were interdicted. Therefore, Mr. Hoseason asked for a fair division by submission and arbitration, but Sandwick scattald was not to be divided till 1872 and then it was by the Court of Session (NRA (Scot) 0450/2376 H. Hoseason to T. Mouat 18 Dec. 1818).

During the Baliasta division in Unst William Henderson, a minor laird in that scattald, expressed what he perceived to be the reason for the division which was to "...thereby put an end to a system of individual appropriation in the common subject..." (Garth - Answ. for Wm. Henderson 16 Feb. 1837). The informal division or enclosure process seemed to be unjustly favouring the major lairds.

Enclosures

Several types of enclosures were made upon the scattald by one or more of the heritors or their tenants and disputes resulted if

the other proprietors felt that too much land or perhaps the best land was being claimed as private property by this haphazard method of scattald allotment. Outsets were one common type of enclosure made on the scattalds (see Ch. 5). The scattald of Walls was divided through the Sheriff Court in 1877. Included among the documents was a list of all the outsets, the dates they were enclosed, and whether they were to be considered common or private property (SC 12/53/13 pp. 205-55). It is rare to find this information so clearly stated. Walls was a major fishing area and as such it attracted new settlers who would require land. The usual way in which to satisfy this demand was to take in an outset. Thomas Irvine, the land surveyor, talked of the practice of making enclosures in Walls. "...old Melby [the laird, Scott of Melby, Walls and Foula] was in the habit of giving the tenant 7 or 9 years free for putting up dykes and houses and no entry was made for rent till the end of that time..." (TI 394/31). It is possible that the proliferation of outsets in a predominantly fishing-subsistence economy could upset the economic balance because too many fishermen would create excessive demands upon the resources of the scattald which would bring about a decline in the ability of the scattald to support the given population. Thus fishing could lead to severe pressures of rural overpopulation in such a marginal area as represented by the scattald of Walls. Therefore, perhaps the landowners in the area of Walls realized that outsets were becoming too numerous and if they continued to increase in number would remove too much common grazing land from their tenant-fishermens' use. By instigating the division process which would result in the private ownership of the scattald by the lairds, they may have hoped to avoid the destruction of the tenant-fisherman occupation which was dependant on a subsistence agricultural system.

The tenant-fishermen provided the essential part of the income for the landowners in Walls and therefore it was necessary that their position be protected. The final scattald to be divided was Hoswick in 1899 and again division was due to outsets and encroachments made on the scattald by tenants of conterminous scattalds (D8/354). In both these cases the clarification of land proprietorship was accomplished by a legal division of the land, although in other instances only a partial division or no division at all was the result (SC 12/6/045 (3273); SC 12/53/6 Report of Colifirth Ness June 1794; Gardie maps - 'A Plan of Cullivoe with the New Enclosures Nov. 1818', 'A Rough Sketch of the Towns and Hill dykes of Cullivoe...1833'; SC 12/6/086 Petition. Lord Dundas v Gifford 1832).

In each of these cases --- grazing, fishing, peat and mineral rights; urban expansion; major v minor lairds; and enclosures --- division represents an end in itself. The lairds initiated the actions in court to eliminate the old multiple ownership pattern in favour of private ownership as a defensive tactic in order to prevent scattald abuse. Generally, the outcome was the legal division of the land. However, there were also scattalds that were divided with an economic motive in mind such as sheep farms.

Sheep Farms

Before the second half of the nineteenth century scattalds were entirely open and the extent of each laird's share had not been determined. With sheep farming becoming a worthwhile proposition the Shetland landowners began to assert their claim to the hills and this gave them sufficient incentive to begin scattald divisions. In 1791 Thomas Mouat began to correspond with Sir John Sinclair, author of the Statistical Account with respect to this as well as other things. The previous year Sir John had "...concentrated his optimism

on improvement by expanding the Shetland breed, which had recently become a popular idea with the Highland Society --- the phrase 'Shetland breed' covered a wide variety, in fact anything sheep-like found in those islands" (Mitchison, 1962, 113). Later the same year he organized the Society to consider the question of preserving the Shetland breed. At that time the production of fine Shetland wool was regarded purely as the result of breed, not of climate or feeding. As a result, when some northern Scottish estates attempted to raise Shetland sheep they discovered that the sheep "...had an irritating way of dying when put on rich pastures" (Mitchison, 1962, 116).

By the early nineteenth century there was an increasing interest in sheep farming in Shetland and as early as 1818 in a discussion concerning the Sandwick scattald division in North Yell James Mouat suggested that the area of Westfield remain as a sheep walk under the care of a shepherd due to its poor quality (Gardie - J. Mouat to H. Hoseason 25 Jan. 1818). In 1872 the scattald was finally divided and Major Cameron later enclosed the town of Kirkabister plus part of his adjoining allotment from the division as a sheep farm (compare RHP14994 with the 1st ed. OS six-inch maps, 1877).

However, it took two major changes before sheep farming became economically viable for Shetland. Early ventures in sheep farming produced severe losses due mainly to the lack of adequate local markets and the absence of regular shipping services to transport sheep to the existing markets (Donaldson 1978). Frequent, reliable steam service was necessary to open up the southern markets to Shetland (see Ch. 10). This occurred on a regular year round basis in 1858 and by 1874 Mr. Evershed was able to write "The regular passage of a line of powerful steamers between the Forth and Lerwick has entirely changed the agricultural position of Shetland, by opening

up a good market for produce" (Evershed, 1874, 187). Improved communications helped to increase the value of sheep and improve the ability of Shetlanders to sell them to the south (O'Dell, 1939, 98). And as a result livestock production was stimulated.

The second change was the price of sheep. In Scotland, 1863 to 1873 were the best years for wool and mutton with wool prices reaching a peak in 1866 and mutton prices in 1883. Therefore when Shetland sheep farming on a large scale began the wool and mutton prices in Britain were at their peak or on an upswing.

Several scattalds seem to have been divided with the purpose of sheep farms in mind because upon completion of the division process landowners were known to begin enclosing some of their allotments (see Chs. 11, 13). After the division of Houlland scattald in North Yell (1858) Major Cameron had the farm of Westafirth enclosed on the south side by a dyke while the east was bounded by a burn and Gloup Voe (compare RHP4047 and 1st ed. OS six-inch maps). Dale scattald, Tingwall was also divided in 1858 and a sheep farm was created at the head of the voe by Mr. Hay. Several families were evicted so that this farm could be created. However, these were not the first evictions in favour of sheep farming. Around 1820 Nicolson of Fetlar had cleared his tenants from his recently divided runrig lands and in 1842 the crofts on the west side of Bressay were cleared to create the home farm of Gardie known as Maryfield (Thomson, 1970, 172-74; Wills, 1968, 26). Later, the farm of Kergord in Weisdale was established after the Weisdale scattald division of 1860 at the expense of three hundred persons who were evicted between 1850 and 1870 (VR 118-1850 compared with VR 118-1870; personal communication - G. Morrison, Cova, Weisdale, Aug. 1977; see Ch. 14).

Although the scattald of Baliasta was primarily divided to

clarify mineral rights, heritors such as David Edmondston and Major Cameron later made their allotments into sheep farms. Three sheep farms were created by David Edmondston on his Baliasta scattald shares. In 1875 he evicted tenants from the town of Rue and made it, along with his surrounding allotments from the scattald division, into a sheep farm. Mailand followed suit and also became a sheep farm after the scattald division. And finally, the Edmondston's northern allotment in the scattald was fenced along with the whole of Burrafirth and Cliff scattald as one sheep farm (VR118-1875, Unst). In addition to the Edmondston's sheep farms the scattald of Baliasta also contained a sheep farm belonging to Major Cameron by 1870.

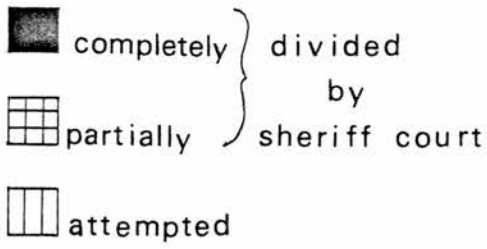
Agricultural improvements perceived by the lairds required the establishment of private property in a legal sense and this involved the initial step of scattald divisions. For whatever reason, divisions were viewed by the majority of the lairds in Shetland as necessary and by the end of the century sixty-nine out of a total of ninety-five divisible scattalds had been divided by either the Sheriff Court or the Court of Session. (During the nineteenth century Shetland had a total of 127 scattalds of which 32 became owned by individuals.)

CHAPTER 7

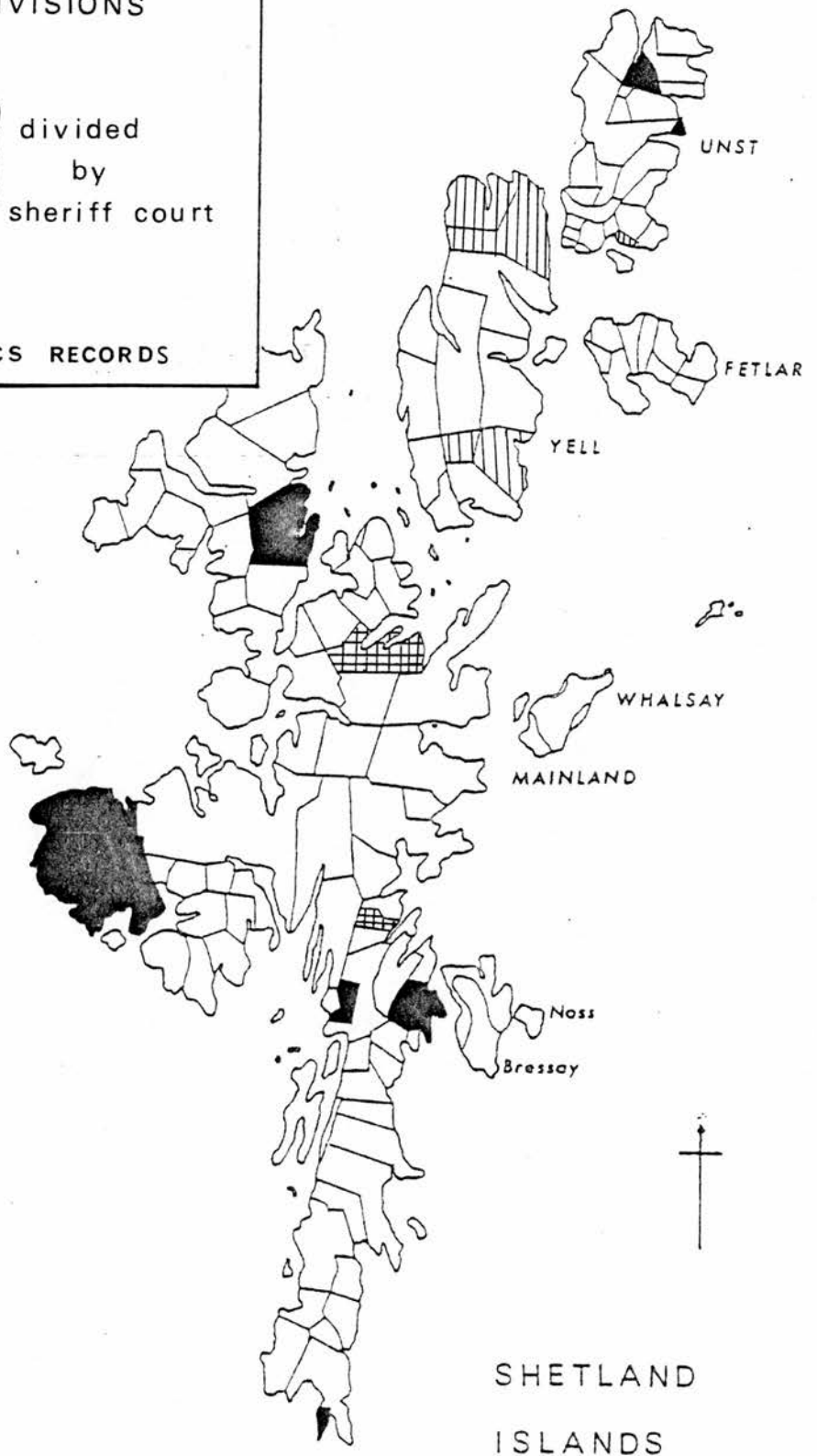
SHERIFF COURT DIVISIONS

The formal division of scattald lands became a commonplace activity among the Shetland proprietors of the nineteenth century who were interested in altering the landscape. The key difference between formal and informal divisions was that the former always terminated in the legal recognition of land ownership and private property rights. When registered in the court the sections of land allocated during division became the proprietor's sole property. Although divisions could be transacted in either the Sheriff Court or the Court of Session approximately 25 percent (or 20,402 acres) went through the former in spite of its advantages (Fig. 16; Table 3). For example, divisions instigated under the authority of the Sheriff Court ensured that all heritors would be involved in the procedure. In this way heritors received explicit legal notice of their neighbour's intentions regarding scattald division. In addition the full process of division could be carried out in Shetland through the local court and consequently required much less time and money to complete than a comparable procedure at the Court of Session in Edinburgh. This was strongly pointed out in 1825 in a letter to James Greig from Arthur Edmondston which stated that the scattald of Sound "...admits of any easy and inexpensive division by arbitration (and) ...If this proposal be not agreed to by you before the first of November next, I will raise a Summons of Division of the Scattald of Sound in the Court of Session, which will differ in nothing from a division by arbitration but in the circumstances of it being more expensive" (D6/120/5). However, for the division to be handled by the local court there could not be

FIG.16 SHERIFF COURT
DIVISIONS



SOURCES: SC & CS RECORDS



— Scattald Boundaries

0 miles 10

TABLE:3

DIVISIONS BY THE SHERIFF COURT

Completely Divided by the Sheriff Court	Partially Divided by the Sheriff Court	Attempted by the Sheriff Court
Swinna Ness, Unst 1816	Laxfirth Tingwall 1820	Clivocast & Murrister, Unst 1823
Houlland, Tingwall 1874	Collafirth & Swining, Deltig 1791	Brough, Yell
Scatness, Dunrossness 1870		Houlland, Yell 1833
Sound, Lerwick 1890		Wilhelmina & Otterswick, Yell 1879
Gluss & Bardister, Northmavine 1791		
Ungirsta, Unst 1823		
Walls & Sandness 1877		

Sources: SC & estate records

any major disputes among the heritors involved. This occurred when commonities thus divided involved few proprietors, were relatively small and were of little value.

Judicial Recognition by Registration

Occasionally the situation arose whereby no disputes or conflicts of any sort developed among neighbouring proprietors involved in a scattald division. This occurred when they had all managed to agree on the crucial issues of the boundaries and the extent of the scattald, the individual claims, and finally, the best way to equitably allocate the hill land among themselves. Under these ideal circumstances it would be mutually decided that in order not to incur great expense the division would be accomplished by an agreement made out-with the court. A document to this effect would then be written and registered in the Sheriff Court to assure legal recognition of the transaction. Several types of documents could be used to accomplish this. The first procedure involving the private resolution of land proprietorship was successfully accomplished at the scattald of Swinna Ness, Unst simply by the registration of a Minute of Consent in the Sheriff Court which legally stated the intensions of the landowners. In 1816 the four proprietors -- Lord Dundas, Thomas Mouat, Thomas Edmondston, and Gilbert Spence -- agreed to divide the ninety-eight acres of the Ness. They appointed Magnus Winwick, schoolmaster in Unst, to divide the Ness and to make a plan and a report,

"...it being greatly for the interest of all parties to have the said Ness divided in a fair and equitable manner and that speedily, and without incurring the heavy expense of a process of division..." (SC12/53/8, p. 24).

The heritors also agreed, at mutual expense, to construct walls along the lines and marches of the division. Legal recognition of the agreement was obtained by registering a Minute of Consent in

the Lerwick Sheriff Court in 1816.

In the same year Thomas Mouat wrote some "Notes...on the preliminaries of Division of Clivocast and Murrister" in which he considered the consent of all parties, the boundary and extent of the commonty, the necessity of a competent divider and the legal considerations of counter claims (NRA (Scot) 0450/2319). However, it was not until 1823 that a division of Clivocast scattald was begun among the five proprietors. Mr. Gardner, a heritor in the scattald, instigated a division of the scattald "...for the proprietors have at present no use of the scattald, compared to what they might have..." Gardner was constructing a dyke and in order to get allowance to complete it he required some arrangement concerning a division. If necessary he would go to court for a division rather than leave matters as they stood. William Sievwright wrote on behalf of Mr. Gardner to all the other proprietors asking them to concur in a division and to state their claim to the scattald in an effort to avoid expense and litigation. The division appeared as though it was going to be carried out by an agreement of some kind ; in 1828 Thomas Leisk (one of the proprietors) wrote to William Sievwright and agreed to a division.

"Seeing that all parties are likely to consent to a division from what you say, it would be needless to sink money in the Court competent as you call it..." (D12/97).

In 1829 Thomas Leisk and William Sievwright corresponded again, this time over the proposal by Thomas Leisk that he retain all of Uyea hill on the Isle of Uyea which was also considered part of Clivocast scattald. Thomas Leisk recounted how he had evicted the tenants of the Isle in 1812 because they were ruining the hill first, by overstocking it with animals and second, by casting and carrying

off the hill sward or top soil in the form of feals and divots. After evicting the tenants he then enclosed and improved the land at great personal expense. Because of this, Thomas now felt that he was entitled to receive Uyea Island as part of his share of the division. However, the other heritors asked that Thomas reconsider his proposal and that he agree to an evaluation of the land, or agree to restrict his proprietorship to Uyea except for peat moss rights on the Clivocast scattald which he had traditionally claimed. Magnus Winwick and William Sievwright were employed to measure and make a plan of Uyea. This was done in 1829, but disagreements over the survey developed and the records are unclear as to whether Clivocast hill was ever surveyed, measured, and divided.

The third attempt at resolving a division extrajudicially occurred at Houlland, North Yell in 1833 but as with Clivocast scattald, proprietors' differences caused the endeavour to fail (see pp. 104-06).

A further avenue open to proprietors for dealing with divisions was to enter into a Contract, Minute, or Deed of Agreement. In 1830 the heritors of Laxfirth and Hamarsland had their mutual boundary perambulated and a Minute of Agreement was jointly entered by the parties to define their position as to the scattald marches. Later, proper march stones were placed along the boundary. Then in order to supersede more expensive measures, the heritors of Laxfirth scattald proceeded to write a Deed of Agreement for which William Sievwright acted as their procurator. A small landowner, Gilbert Spence of Hamar, was employed by the proprietors to survey and measure the scattald while John Grant and William Merryless were appointed to assist him as valuers. These three men walked over, examined, and compared the different qualities of soil and surface

and reported that the scattald of Laxfirth, which consisted of 1194 acres, came to a total value of only £10 (approximately). Since it was not worth a more expensive procedure, the land was then simply allocated among the landowners and the Deed of Agreement which stated their claims, was registered in the Lerwick Sheriff Court books in 1840 (SC12/53/11).

The majority of divisions accomplished by agreement or consent were legalised by registration in the Sheriff Court, however, there exists a unique example of a Minute of Agreement registered in the Court of Session. This case arose in 1871 regarding the division of the scattald of Sweenister in Tingwall. In that year a summons of division was raised in the Court of Session. However, when it was realized that the value of the whole scattald only amounted to a trifling £21 1s 3d, the parties involved decided to short circuit the Court of Session process because the cost of such a procedure would have been greater than the value of the scattald. Since none of the proprietors objected to the boundaries and since the scattalds were "...of small value and little able to afford the expense of a commission from the court..." the heritors decided to enter into a Minute of Agreement (Taylor v Duncan - CS46 26/8/1872). It was agreed that John S. Houston, schoolmaster in Yell, be appointed to measure and apportion the 303 acres of hill among the lairds according to their rights and interests. Since the three heritors owned equal shares the scattald was to be divided into three portions of equal value. The division as proposed was agreed to by the proprietors and accordingly they moved that the Lord Ordinary of the Court of Session ratify, approve, and confirm the lines of the march boundaries, divisions and allocations and ordain the same to take full effect. This unique division by agreement through the Court of Session was completed in 1872.

It was perhaps naive to expect that private property rights could be settled out of court. Indeed the process of registration assumed that the proprietors could settle their differences without a third party, although in practice this proved difficult to accomplish and as a result few were attempted and even fewer succeeded.

Division by Arbitration

As the landowners' interest in land developed their desire to have the scattald divisions monitored carefully by a judicial process increased. They wanted the legal assurance that they had received their just and fair share of the commonry and to ensure this they were willing to pay slightly more. More often than not, disagreements of some sort would develop among the parties involved in a scattald division and as a direct consequence the process would increase in complexity. If the disputes happened to be of a minor nature while the number of proprietors and the size and value of the scattald remained small then the case proceeded through the Sheriff Court. Under these circumstances an objective third party was chosen by the heritors to resolve their competing claims and to make sure that an equitable division was accomplished. Generally the Sheriff or Sheriff-Substitute of Shetland or a local solicitor was chosen to be the arbiter or third party. The arbiter's duties were many. He had the power to control the division of the scattald lands and to ascertain each proprietor's rights; to receive claims and defences if necessary; to perambulate and take proof of the scattald's extent and its marches; to appoint a valuator and surveyor to measure, survey, and draw up a plan; to make allotments adjacent to their present lands; to divide the mosses; and to ascertain the expenses of the division (SC12/53/13, p. 166). As the above statement illustrates, arbitrations often followed the judicial process pattern of the Court of Session (see Ch. 8).

The legal Sheriff Court process generally included two major documents, the first of which was the Deed of Submission. This was "A deed by which parties agree to submit a disputed point to arbitration" (Bell, 1826, II, 456). Moreover, the document introduced the case by including the heritors' consent to divide all or part of the pro indiviso scattald, along with the name(s) of the arbiter(s) chosen by the parties. At this time it was also agreed who was to be appointed as measurer and valuator(s). These men could either be chosen by the arbiter or by the proprietors. Generally, two respected local farmers were chosen as valutors while the measurer tended to be a recognized land surveyor such as Thomas Irvine from North Yell, or a schoolmaster such as Andrew D. Mathewson, also from Yell. The surveyor and two valutors would then proceed to survey, value, and divide the land. If the heritors were all in agreement with the finished product then the Decree Arbitral, or the final judgement or decision of the arbiter, was registered in the Sheriff Court to legalize the action. This format, like that of legal recognition by registration, provided an attractive alternative to the proprietors: it was relatively inexpensive and simple, but more importantly it was a convenient vehicle for change and unlike the Court of Session process, it was conducted totally by local people.

One of the earliest divisions by arbitration supervised by the Lerwick Sheriff Court involved the scattald of Collafirth and Swining in the parish of Delting. In 1791 the major landowner, Robert Hunter of Lunna, instigated a division of the improveable but as yet unenclosed pieces of scattald land to which the other four heritors consented. Consequently, a division by submission was entered into by the proprietors in 1793. Walter Scott, the Sheriff of Shetland, was chosen as arbiter while Andrew Hawick of Swinister and Laurence Johnson of Lunna were chosen as measurers. Their job was to perambulate

the marches of the scattalds "...and to take information from the oldest and most respected men in the neighbourhood... to cognasce the boundaries... to examine and measure such parts of the said common as are fit for improvement" (SC12/6/045 (3273) Division of Collafirthness 22 Aug. 1793). The measurers presented their plan to the arbiter for approval but a dispute developed over whether Collafirth and Swining were one or two scattalds. Finally, it was decided that "...for the benefit of both rooms [Collafirth and Swining] that a march is found and fixed betwixt them..." (D8/210 Gifford to Hunter Jan. 1794). This was done.

Meanwhile, Hunter of Lunna and Gifford of Busta conducted excambions of land in order to simplify the division and to unify their holdings. In the following statement Gifford expressed approval of the plan to divide the scattald and to consolidate estate lands.

"...to throw a man's whole property together is a capital matter which surely might easily be done. What can one make of a few hundred fathoms in a place besides it ruins him by the expense to enclose it where as if his whole property is laid together he has nothing to say and was it not now to be done some future division will do it at considerable expense to all parties" (D8/210 1793).

Letters were sent back and forth between Gifford and Hunter regarding the quantity and quality of land to be exchanged. The purpose of these excambions was to simplify the division process and thus reduce its cost and increase its efficiency. Finally, in 1794 Hunter wrote to Gifford.

"...all our schemes for excambion are now exhausted and rejected as those will be, I beg that no time be lost but that we go on with the Division..." (D8/210 Mar. 1794).

Both heritors insisted that their whole share be laid together in one spot.

A further dispute between the original surveyors ensued over the measurement of the scattald and therefore a Mr. J.L. Leask was chosen to survey the 58 acres of improveable ground. As surveyor, he took along "an experienced farmer" and he called forth the oldest and best informed people in the neighbourhood to assist him in establishing the boundaries. Leask inspected the different portions of ground for quality and situation and decided the parts to be allocated to each heritor. He then deducted or added portions to heritor's allotments "in name of quantity for quality" and subdivided the grounds with march stones (SC12/53/6 Report of Colifirth Ness, June 1794). Finally, a plan of the division of Collafirth was completed in 1794 to which the sheriff and proprietors agreed and in the same year the Decree Arbitral was registered in the Sheriff Court books in Lerwick (SC12/6/120; D8/210, 215). However, the scattald division did not end here; in 1868 a summons of division was raised in the Court of Session and the remaining 9375 acres were divided among the parties in 1876 at a cost of £814 2s 11d.

One of the later divisions through the Sheriff Court using an arbiter involved the scattald of Houlland in the parish of Tingwall. In 1874 the three proprietors -- G.H.B. Hay of Hayfield, Mary E. Irvine of Bellevue and Charles Irvine of Houlland -- agreed to instigate a division of the whole scattald. William Sievwright represented them as their procurator and he submitted an Agreement and Submission to the Sheriff Court for registration under which Andrew Muir, Sheriff-Substitute for Shetland, was chosen by the parties to be arbiter. Joseph Irvine from Kirkasetter, Tingwall was appointed as surveyor while Messrs. Laing from Gulberwick and Fleming Laurenson from Lerwick were appointed as valuers. The boundaries of the divisible subject and the town lands had previously been agreed on.

Therefore, in order to shorten the case the parties conceded that another perambulation of the scattald was not necessary.

"...it was further stated that the town dykes had not been set out for 40 years at least, and that there were no outsets..."
(SC12/53/13, p. 167).

By the latter part of 1874 the valuator and surveyor had lodged a Report of Valuation with the arbiter which was followed by the registration of a Joint Minute in the Lerwick Sheriff Court in 1875. This document included the valuation of the various sectors of land as well as a special report on the condition and quality of the peat moss. It was unanimously agreed that the mosses were,

"...of no practical value and that to use the same for peat cutting would greatly injure if not destroy the surface for pasture [therefore] they agreed that the mosses should be disregarded, and that the said scattald should be divided as if there were no mosses therein..."
(SC12/53/13 p. 168).

A plan of the scattald including the scheme of land allocation was completed in March 1875. The proprietors were allowed three weeks each to view these and to lodge any complaints that they might have but none were submitted and so the scheme was declared final. By May of the same year the surveyor had laid march stones in the presence of the parties or their representatives, at certain fixed points along the boundaries of the parties' respective allotments. And by June he had lodged the plan of the scattald allotments, plus the Final Report of the Survey and Division with the arbiter. Again no objections were raised by the heritors and so the division was concluded. The surveyor and valuator had stated that this small scattald covered a total of 330 acres of which G.H.B. Hay owned the bulk but the total value of these lands only amounted to £18 5s 10d, ample justification for the choice of such an inexpensive, straight forward method of division. The Final Judgement and Decree Arbitral, along with

the Deed of Submission regarding Houlland scattald were first approved by the arbiter and then registered in the Sheriff Court books of Shetland in Lerwick, August 1875. The said scattald had now been successfully divided among the three proprietors "according to the number of merklands belonging to each of them". These allotments thus received were now their individual property, for once the Decree Arbitral was registered, it had the effect of a conveyance in favour of the submitters of the shares of the scattald severally allotted to them in terms of the Conveyancing (Scotland) Act 1874.

Occasionally efforts to settle a division via a Sheriff Court process failed. Some of the heritors of Brough, Yell tried to arrange for a division by a Deed of Submission and they requested that the other proprietors join in this action. Unfortunately, the others refused or delayed to do so and it was therefore necessary to institute an action in the Court of Session in 1867 which, by the time it was completed five years later, had cost the proprietors the grand sum of £817 14s 4d.

Conclusion

Although the amount of cultivated land in Shetland had fluctuated constantly in response to population pressure, the final years of the eighteenth century marked the beginning of an era of agricultural expansion which was to last nearly one hundred years. As the amount of land under cultivation increased, lairds were forced to stake their claims to the land not only to accommodate their increasing number of tenant-fishermen but also to assure possession of their rightful share of the common. Initially, settlements were reached by agreement between neighbouring lairds but occasionally the introduction of a petition in the Sheriff Court was necessary to halt an overly ambitious individual from enclosing and claiming more than

his fair share. As the process of land acquisition intensified, disputes developed and generally the proprietorship of land was the key issue. The first Sheriff Court division involving the scattald of Gluss and Bardister commenced in 1791 and over the next century the local court in Lerwick was responsible for completing an additional six divisions as well as seven partial or attempted ones. The Sheriff Court provided landowners with an inexpensive, legal solution to their desire for more land, be it to accommodate tenant-fishermen or to advance agricultural improvements. Although the Sheriff Court was only responsible for a limited number of divisions, it nevertheless handled numerous cases that dealt with a preliminary stage to divisions such as the clarification of scattald boundaries and usage. This in turn simplified division processes that were carried out later in the Court of Session. However, by mid-century the socio-economic structure of Shetland had begun to change. As the lairds' expectations concerning the potential of the scattald rose, so did their eagerness for a more accurate and detailed survey and division. Attention turned to the Court of Session to provide this service and, except for cases where the scattald in question did not warrant the cost of a Court of Session process, the majority of the divisions were settled by Scotland's premier civil court.

CHAPTER 8

COURT OF SESSION DIVISIONS

The Division of Commonly Act, 1695

The Act concerning the division of commonities was passed on 17 July 1695 and its aim was stated distinctly and clearly: "for preventing the discords that arise about commonities, and for the more easie and expedit deciding thereof..." (APS, ix, App. 117, p. 462 (1695, c. 69)). It allowed for the division of any commonly in which neither the Crown nor royal burghs had rights, at the instance of any proprietor. Once it was determined that the scattald was a distinct regional variant of the commonly then it could also be legally divided under this act (see p.164; Adams, 1973, 268-9). With it, the Shetland landowners possessed a vehicle through which they could clarify the contemporary state of land ownership. Adams (1967) expressed this notion first when referring to the divisions of commonly in Scotland. Once a summons was raised in the Court of Session it had the power to discuss the relevancy, to determine the rights and interests of all the parties concerned, and to value and divide the commonly. The Act empowered the court to grant commission to local men possessing legal training. In Shetland the task usually fell to the sheriff or sheriff-substitute and occasionally to a writer (solicitor). A clerk, also a local writer, was appointed to assist the commissioner by recording the proof, while valuers and surveyors aided the commissioner in evaluating and dividing the land.

Under the Commonly Act a minimum of 100,000 acres of land (out of Shetland's total area of 352,000 acres) formerly under multiple ownership was transferred to individual proprietors, thus illustrating the importance of the act (see Appendix A). Although this area represented approximately 30 percent of Shetland's total area it

also represented 80 percent of the total number of scattalds that underwent division. Out of sixty-nine scattalds that underwent a division of some description, fifty-five of these were divided under the auspices of the Court of Session (Fig. 17; Table 4).

"Even where division did not take place judicially, the threat to invoke the Act promoted division by private agreement or by submission and decret arbitral over a large, but not precisely ascertainable, area of land. Often the precise boundaries of the commonities were questionable, parts having been taken into cultivation by neighbouring heritors before division, or having passed by virtue of prescription, from common ownership" (Adams, 1973, 296).

By the end of the nineteenth century few of Shetland's scattalds remained legally under multiple ownership. The central control provided by the Court of Session over decisions made by local professionals resulted in the success of the Act of 1695, but often in a legal sense only, while in practise multiple use continued.

The Role of the Court of Session

Although the implementation of the Act of 1695 marks the tidying up of various procedures for dividing Shetland's scattalds, it was still responsible for the division of 73 percent of those scattalds that underwent a full division of any sort. Because of the complex nature of multiple ownership in Shetland, disputes were common. This meant that the majority of commonities required formal division in the Court of Session since major disputes involving scattald divisions and division of commonity processes did not fall under the jurisdiction of the local Sheriff Court until the latter part of the nineteenth century (see p.175 below).

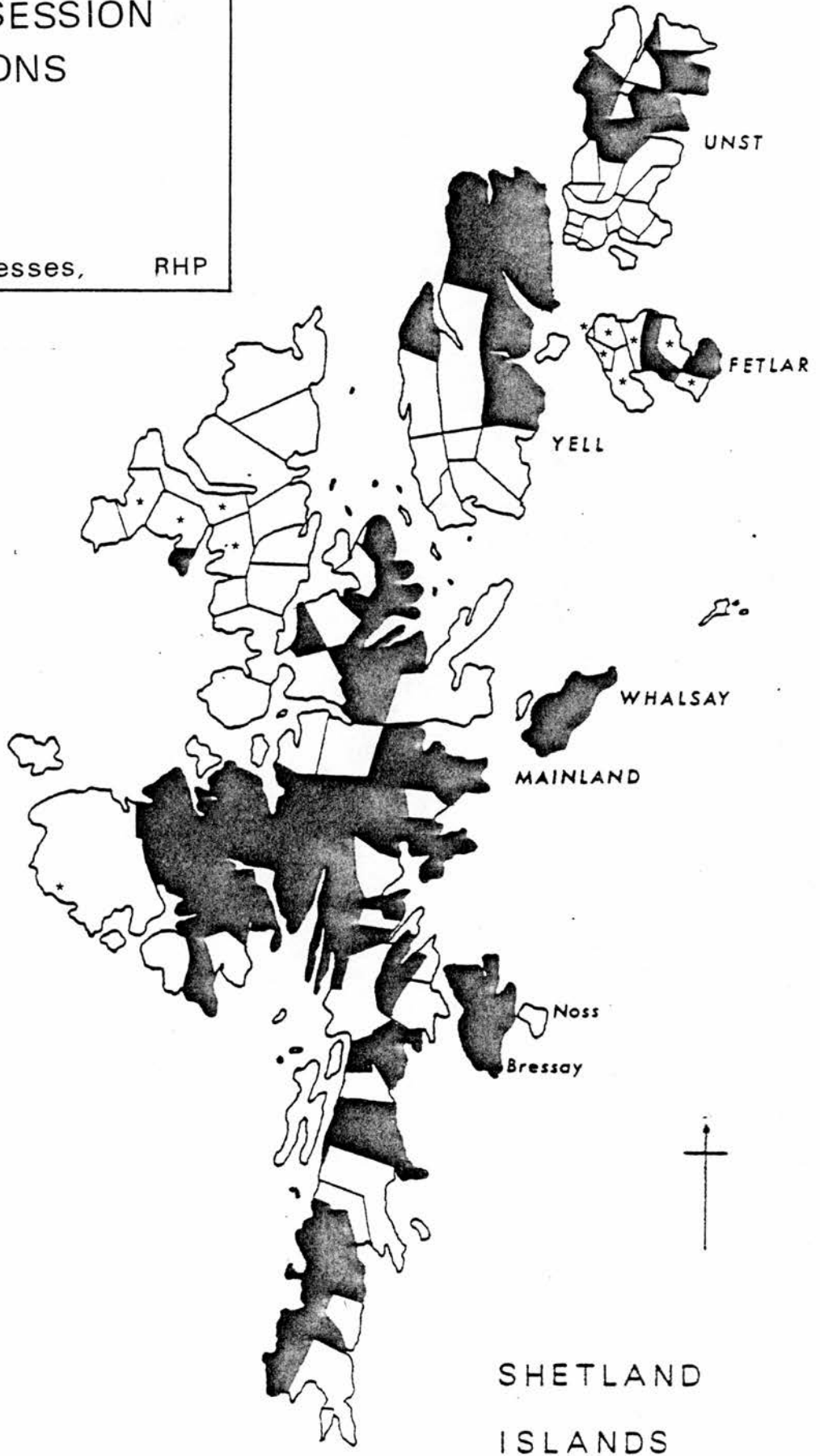
The Court of Session, Scotland's premier civil court, was located in Edinburgh and although this gave a centralised direction to all the divisions in Scotland, it proved very costly and time consuming to those areas such as Shetland that were far away from

FIG.17
COURT OF SESSION
DIVISIONS



sources: CS processes,

RHP



— Scattald Boundaries

0 10
miles

TABLE: 4 Court of Session Divisions

Completed DivisionsUnst

Norwick, 1864
Haroldswick 1860
Clibberswick, 1864
Baliasta, 1850

Fetlar

Strand, 1882
Aith, 1882
Houbie, 1882

Yell

Houlland, 1858
Brough, 1872
Sandwick, 1872
Gravaland, 1859

Northmavine

Ness of Hillswick, 1861

Delting

Brough, 1869
Firth, 1869
Burraness, 1869
Laxobigging, 1869
Trondravoe, Hardwell, Voxter, 1876
North Olnafirth, 1876
Collafirth and Swining, 1876

Nesting

Whalsay, c 1833
North Nesting, 1880
South Nesting, 1880

Bressay

Bressay, 1882

Tingwall

North Weisdale, 1860
Hamarsland, 1854
North Whiteness, 1875
South Whiteness, 1875
Swinister, 1872
Dale, 1858
Uradale, 1842

Sandsting

Aithsting, 1878
Browland, 1863
West Houlland, 1863
Effirth, 1863
Semblister and Sand, 1862
Garderhouse, 1863
Gruting, 1863
Wester Skeld, 1863

Lerwick

Gulberwick, 1874
Brindister, 1874

Dunrossness

Fladdabister, 1888
North Cunningsburgh, 1888
Clift Hills, 1888
Hoswick, 1911
Channerwick, 1888
Levenwick, 1888
Scousburgh and Rerwick, 1888
South Hill, 1888
Fitfull Head, 1826

Attempted DivisionsFetlar

Funzie, 1872
Grutton, 1872
Russater, 1872
Urie, 1872
Oddsta, 1872
Dale, 1872
Lambhoga, 1872

Northmavine

Hamar, 1869
Ura, 1869
Hillswick, 1869
Murrion (Braewick), 1869

Walls & Sandness

Footabrough, 1868

Sources: SC, CS, RHP, Estate Records

the hub of the Scottish lowlands. Moreover, the Court of Session process was complex when compared to the previously-mentioned methods of division. The situation was partially rectified by the court's delegation of the empirical tasks of establishing rights to the community, its boundaries, and scheme of division to a local commissioner, who in turn appointed local men to the positions of clerk and valuator, while surveyors could be either local or Scottish. The result was that although the final decision lay with the Court of Session in Edinburgh, its liberal application allowed for a wide spectrum of people to be active in the transformation of their own landscape. Although centralized in Edinburgh this was a much better system than its counterpart in England where application for a private act of parliament was necessary to undertake division of common land (Adams, 1973, 292, 296, 301, 312-14). Division by the Court of Session was the most meticulous process of land allocation available to the lairds. While the landowners of Scotland had begun to take full advantage of this act by the mid-eighteenth century (Adams 1971a,b,c), it was not until 1815 that Shetland had any dealings with the Court of Session. The first division in the court was completed in 1826 (see pp.160-65 below). By mid-century Shetland landowners were becoming more involved with their land and as their interest in its agricultural potential increased, many turned to the Court of Session method of eliminating scattalds in favour of private property; this is illustrated by the Court of Session records. By plotting the division dates available from Court of Session and Sheriff Court records it is possible to establish that the bulk of the Court of Session divisions in Shetland took place during the period 1850 to 1880, although the final one was not completed until 1911 (Fig. 20).

The Division Procedure

A standard format was followed in a division of commonalty process; the 'process' referred to the legal documentation of an action, in this case a scattald division, from start to finish. It commenced with the pursuer, or party suing in the action, raising a summons which originated an action in the Court of Session. This first writ declared the documentary evidence for the pursuer's claim to a share of the commonalty and charged the defender(s), or party(ies) against whom the civil action was brought, to do the same. Once the pursuer had established his case in the court, an interlocutor was granted by the Court of Session appointing a commissioner who in turn had the right to appoint a clerk, a surveyor, and valuers to assist him. In the case of Shetland, the sheriff or sheriff-substitute, or occasionally a solicitor was appointed to act as commissioner. It was his task to view each proprietor's rights and titles to the land, to visit, perambulate and take cognizance of the commonalty's marches, to learn the number of merks possessed by each heritor and then to divide the scattald among the parties with a legal right to a share of the land. The commissioner acted as a judge throughout the proceedings and in the end it was his responsibility to keep a record of all the stages of the process and to submit this to the Court of Session.

The commissioner and his clerk, who was usually a local solicitor, were responsible for recording all the evidence. This was generally accomplished near the commonalty in question. All parties claiming rights to the scattald were required to produce documentary proof of their ownership in the form of sasines, charters or deeds. In addition, proof of possession or customary usage was given to the commissioner by people (usually men) who were intimately

familiar with the scattald and had been for forty years, the necessary amount of time before one could claim a prescriptive right to the land. Numerous lengthy speeches were often recorded which outlined in detail the valuable role of the scattald in the life of the townships. These men reiterated the various ways in which the scattald was used, the primary one being for the pasturing of animals. "...the Whole of Collafirth and Swining have scatted together. Sheep, horses, and cattle of both towns have used promiscuously every part of the scattald..." (Gifford v Zetland - CS46 87/5/1876 Minutes of Procedure p. 80). And later,

"The young cattle are put out in the beginning of May and are not caaed during the season and are not brought home again till harvest is over. They wander indiscriminantly over the scattalds" (CS46 87/5/1876 Minutes of Procedure p. 196).

The crofters possessed little control over the grazing habits of their animals. "Where the scattalds in Shetland are contiguous and without fences between them it is a common thing for sheep to pasture over the marches..." (Gifford v Cameron - CS46 88/7/1869 Interim Report 1865). The scattald also provided the landowners and their tenants with a suitable reserve of arable land and as a result the practice of making enclosures on the hills seemed widespread. One witness related how his family established an outset in a Delting scattald:

"My father was the tenant. We kept a cow with the concurrence of the neighbours which pastured on the ground in question... We cut feals wherever we chose. This was also by permission of the neighbours. My father made additions to the Yard and Pund from the common property" (Gifford v Cameron - CS46 88/7/1869 Interim Report 1865).

Another witness commented on an outset's status within the agricultural system:

"The tenant in Loog [an outset] possessed and used the scattald of Brough in the same way as the tenants of the merks land around as to pasturage, cutting feal, peats and the like..." (CS46 88/7/1869 Interim Report 1865).

Additional uses of the scattald such as for the cutting of peat, feal and divot, the gathering of seaweed and the working of minerals were also noted.

Once the rights to the scattald had been clarified, the commissioner announced the perambulation of the scattald marches. This required that the commissioner take proof of the extent and boundaries of the scattald. Witnesses, usually the older tenants from both the scattald in question as well as from conterminuous scattalds, were called by the parties to determine the limits of the hill and the possessions of each party both within the scattald and within the townships. Prior to the scattald divisions, boundaries were vaguely adhered to. As one seventy-seven year old witness noted during a division in the parish of Delting,

"The indications of a boundary are so vague, it seems to have entered so little into the minds of the residents on the spot to consider and fix and regulate their conduct by any fixed limit...In almost every instance the boundaries of scattalds in Shetland were disputed. There is a border-land for which the claimants contend and which they generally have possessed in common. The animals on either side pasture at the utmost limits on the same ground, and when the boundary comes to be fixed both sides claim such ground" (Gifford v Zetland - CS46 87/5/1876 Minutes of Procedure pp. 328-29).

Often boundaries were determined simply by perceived grazing rights, as was the case involving the North and South Olnafirth division.

"...I do not know much of the old march marks or boundaries of the scattald, but I can speak to the ground on which our sheep were pastured...I have heard from old people that these were the marches

to which we were entitled and that their sheep even pastured far beyond" (Gifford v Zetland - CS46 87/5/1876 Minutes of Procedure pp. 309-10).

Boundaries were variously described by the different witnesses and disputes commonly ensued over what was still considered commonty. Encroachments had often reduced the scattald's size considerably and it was the task of the court to determine which lands still qualified to be divided under the Act. More than forty years of continual occupancy was taken as the amount of time necessary before the land was no longer deemed commonty. If, however, the land had been enclosed for less than the prescribed forty years, then it was still considered scattald land and it was divided accordingly. Usually the surveyor and valuers accompanied the commissioner and witnesses to the scattald to observe its boundaries. The surveyor would often draw a rough location map or preliminary survey to show the boundaries and general layout of the area. Later, with the aid of the valuers he surveyed the scattald in detail and produced a map or plan of the commonty.

Occasionally at this stage, a process might 'fall asleep' or remain inactive for several years on the Court of Session books (Bell, 1826, II, 563). This occurred in the case of the Bressay division (Cameron v Hamilton - CS243/1, 223). The landowners' lack of interest in the case, a shortage of capital, or the death of one or more of the involved parties might result in a case remaining unresolved. Finally, the case might purposely be allowed to fall asleep, thus providing the landowners with the time for carrying through and completing excambions before the process was re-awakened and the division concluded. In the end these would simplify the division process, therefore reducing its cost and increasing its efficiency.

Once the scattald ownership and boundaries were clearly defined, the valuator and surveyor were required to judge the different qualities of the land, to divide it into parcels, and to price each in shillings as well as pennies per acre. The value of these sections of rough grazing land ranged from as high as five shillings to as low as one penny per acre, with the most common value being two shillings or less. The scattald valuation was then superimposed on the survey map (see Fig. 24a). With the delineation and valuation of the scattald complete, a scheme of division was produced. In Scotland this was based on the valued rents of the land with rights to the common, but in Shetland, where a formal valuation did not exist, the court decided during the first scattald division at Fitful Head, that the merks of land into which Shetland was divided would suffice in lieu of a valuation. The land was apportioned among the parties with each heritor receiving sections of land most convenient to his property. Proprietors' allotments did not always lie contiguous to each other, however, the total value of the common received by each proprietor was equal to the proportion due. If the peat moss within the scattald could not be conveniently divided along with the rest of the hill land, then it was often left free to be used in common. This occurred more often than not in Shetland. Occasionally the peat moss fell within one heritor's allotment. In this case the other heritors were given a surface right to their legal share of the peat, but when the moss was exhausted, the soil then became the sole property of the owner. A scheme and plan of division was produced by the surveyor, and if it was agreed to (after being seen and commented upon by the several parties), then the surveyor returned to the scattald to mark the boundaries of the shares, the roads, and the scattald marches by march stones, cairns, or pits.

At this point the process was summed up in the commissioner's report which was submitted to the court for approval. If the division was finished to the satisfaction of the parties and the findings were upheld, then the case was formally completed by the issuing of a final decree. Once the decree was registered it had the effect of a conveyance by all joint proprietors and the sections of the former scattald became the sole property of those to whom they had been allocated. As a safeguard against any dispute, the plan was often given to the major proprietor in the commonalty or lodged in the Sheriff Court for safekeeping. Finally, a report of expense was issued listing the various costs and each heritor was required to pay an amount directly in proportion to the amount of land that he had received from the division.

Division Expenses

The total cost of a division varied according to the size of the scattald in question, the length of time the case remained in the courts and the cost of the professionals' services (the surveyor, valuers, commissioner, clerk and solicitors). A comparison between two division cases illustrates this point: four scattalds in the parish of Delting covering an area of 4833 acres took seven years to divide and cost the heritors a total of £1306, while the small scattald of Trebister in the parish of Lerwick covered only 272 acres and took nine years to divide at the cost £122.

It was in the best interests of the landowners to keep their division costs to a minimum. One method has already been mentioned, that of excambions. Often segmented ownership patterns existed in the scattalds making division both complex and expensive. Therefore, excambions were viewed as a way of tidying up landownership which in turn facilitated uncomplicated legal divisions. The best

example is that of the division of the Fetlar scattalds (see pp. 111-16 above). Cost could also be minimized by choosing a local surveyor since transportation costs to Shetland inhibited the hiring of surveyors from Scotland. In addition, local surveyors tended to charge considerably less for their time than did the Scottish ones. If we compare the earnings of one Robert Coyne, civil engineer and land surveyor from Edinburgh, with those of J.W. Hepburn, a Shetland surveyor, the difference is staggering. In 1864 Mr. Coyne received £230 in payment for the division of the 1,635 acre scattald of Clibberswick and Norwick, while in 1880 Mr. Hepburn received £132 for the division of the 8,917 acre scattald of North and South Nesting. Although both divisions took approximately three years to complete, Coyne was paid at the rate of two shillings and ten pence per acre while Hepburn received a meagre three and a half pence per acre.

Often the defenders would submit joint writs and hire one solicitor to represent them in a division. In the unique case involving the scattald of Sweenister, Tingwall, the six parties decided to bypass a lengthy legal action since there was no disagreement concerning the boundaries and since the scattald was of little economic value. They decided to enter into a Minute of Agreement whereby they agreed to appoint John S. Houston, schoolmaster in Yell, to divide the scattald (Taylor v Duncan - CS46 26/8/1872). Shortcuts were also taken in other cases. If the marches of the scattald could be agreed to amicably then witnesses and proofs were omitted. This occurred during the division of Clibberswick and Norwick scattalds in Unst where the joint proprietors of these scattalds and that of the adjoining one named Ungirsta, wrote a Minute of Agreement concerning the mutual boundary between Norwick and Ungirsta in order to save time and money (Edmondston v Zetland - CS46 85/7/1864). Previously

during the same case, the proprietors of Clibberswick agreed to the extent of their respective rights or interests in the scattald. Consequently they dispensed with further proofs or production of titles, again in an effort to shorten the process and reduce their expenditure.

In several instances the division of runrig lands and the enclosed grass lands 'possessed undivided or in common' occurred simultaneously with that of the scattald. If the townships had not been planked prior to the scattald division then the landowners usually took this opportunity to deal with the whole. It was the surveyor's final task to undertake the demarcation of the proprietors' shares in the scattald. Generally costs were minimized by marking the boundaries by cairns rather than enclosing the fields with dykes.

Fitful Head --- The First Court of Session Division

The first Shetland scattald to be divided by a Court of Session process was that of Fitful Head, Dunrossness, the southernmost scattald in the islands (Bruce v Grierson - CS44 11/7/1826; see Fig. 18). A dispute arose between the two major landowners in the area and in 1815 a summons was raised for the division of Fitful Head by Robert Bruce against Andrew Grierson over peat cutting rights and the use of the land as a commonity. The Symbister tenants were forced to find more peat moss when the banks that they had traditionally worked became exhausted. However, when they tried to cut peat in another part of the scattald, Bruce was told that the lands were exclusively possessed by the Grierson tenants. In retaliation Bruce raised a summons asking for the equitable division of the commonity. Grierson not only refuted the fact that Bruce had rights in the commonity but he also refuted the very existence of a commonity. In his Memorial he stated that the hill had all been apportioned as exclu-

sive property in the eighteenth century but because of the poor quality of the land, animals were allowed to continue to graze over the whole. In his opinion pasturage was the only right the land-owners of Fitful Head held in common and this was not synonymous with common property. In conclusion he argued that this scattald did not qualify for division under the 1695 Act. However, in 1823 the Lord Ordinary, upon hearing the counsel of both parties, concluded that the pursuer should pursue his action of division. Andrew Duncan, sheriff-substitute, was granted the commission.

The next question facing this case was whether the 1695 Act for division of commonities could also apply to the scattalds of Shetland in the same manner as it did to the commonities of Scotland. The Act 1695, c. 38 stated that all commonities, excluding those belonging to the King and Royal Burghs could be divided "...according to the value of the rights and interests of the several parties concerned." Because Shetland lacked a valuation roll the court required that the parties debate as to the principles on which the division should take place. Grierson, the defender, continued to base his case on the assumption that no common existed. In addition he concluded that Shetland possessed no valuation upon which a division of commonity under the Act 1695 could be based. At first glance the lands of Shetland seemed to be considered beyond the operation of the act.

The pursuer in the case, Robert Bruce, proceeded to justify the use of the act to divide Shetland's scattalds. He felt that the action for division of a commonity based upon the statute was not intended to be limited by the clause relative to the mode of estimating the extent of the rights and interests of those concerned because that part of the act only pointed out one mode of adjusting

the division considered at the time to be almost universally applicable (Bruce v Grierson - CS44 11/7/1826 First Division 17 June 1823 p. 11). Bruce expressed the thought that a division would be competent where an exact equivalent for valuation could be applied. In Shetland's case the standard for estimating the rights and interests of the parties was based on merks. The division of the islands into parcels of land called merks, formed a valuation of the lands and Bruce suggested that these be used as a substitute in all matters which were regulated by valuation. Bruce therefore concluded that the common of Fitful Head fell under the Act 1695 and that it should be divided accordingly. Bruce's defense of the Division of Commonly Act 1695 and its relevance to Shetland's scattalds paved the way for the century of divisions that were to follow. He had established a precedent when he stated that the merks of land into which Shetland was divided and upon which taxes and rents were levied, formed a valuation of the lands and that this valuation could then be used in lieu of a formal valuation as a measure of the rights and interests of the heritors when dividing the land.

In 1824, as a result of Bruce's convincing arguments, the Lord Ordinary allowed the process to proceed under the statute 1695 and as no valuation existed the division was to be made according to the merks of land possessed by the heritors. In 1825 the Act and Commission was renewed with the alteration that authorized the division of the common to be made according to the number of merks belonging to each of the parties.

William Crawford, a young land surveyor in Edinburgh, was appointed to do the surveying. (It was not until 1837 that a Shetland surveyor, A.D. Mathewson, was appointed to work for the Court of Session). Mr. Samuel Henry, a writer in Lerwick, was chosen to be

the clerk to the Land Commission while John Grant and James Strong, local farmers, were appointed as valuers to aid Mr. Crawford in measuring and valuing the land. Robert Bruce claimed that his tenants from the Isle of Noss were entitled to all the admitted rights of property, while Mr. Grierson felt that Noss was only entitled to a servitude of pasturage for its animals and not to ownership of a portion of the common. Nevertheless, the pursuer, Robert Bruce, was awarded his 51-1/4 merks including a full admitted right of property for his Noss tenants on the common, and Mr. Grierson received his 283 merks. While this long involved division had begun as a result of a dispute over peat interests, in the end all the peat moss fell in the Grierson allotment. However, as his share Bruce was given the right to 17 acres of it. This right was a surface right only, the subsoil reverting to Grierson as his private property once the peat moss was exhausted. After almost eleven years this case finally terminated in 1826. The total cost came to £136. Grierson attempted to convince the court that defender and pursuer should divide the expenses equally but finally it was decided that each should pay according to the proportion of the common that they acquired by the division. This became the normal procedure. Having received the greatest proportion of the scattald Andrew Grierson was required to pay the maximum amount of the division cost: £115.

The Fitful Head division established a model that later scattald divisions and dividers followed very closely. Of primary importance to Shetland landowners was the legal acceptance of scattald divisions under the Act 1695 based on a valuation of the land by merk. Now the common lands in Shetland could be divided at the instance of one heritor regardless of whether the other heritors were in agreement; the establishment of private property was no longer dependent

on mutual agreement or the making of clandestine enclosures. The qualification of the scattalds under the division act began a new era in Shetland and by the end of the century an additional fifty-four scattalds had undergone division in the Court of Session.

The Progress of Division





The slowness of Shetland's divisions cannot be attributed to a lack of awareness that divisions were a viable means to agricultural improvement, but that only gradually did the appropriate conditions for divisions emerge. Divisions must be seen in the context of nineteenth century Shetland conditions and until mid-century, these could not justify the large expense in carrying out a division process. Therefore the appropriate questions do not revolve around the slowness of divisions, but rather arise out of the nature of divisions within the Shetland environment. The process of scattald divisions was influenced by various factors, the first being the availability of capital. A simple division could cost the landowners as much as three or four shillings per acre; therefore, if his allocation in a division totalled several hundred acres, his personal expenditure was considerable. Another factor involved the landowning and fishing interest which varied greatly from region to region within the islands. Prior to 1850 few Shetland landowners wished to alter the customary landowning structure from that of multiple ownership; the traditional system was operating sufficiently to meet the needs of a subsistence economy based on fishing and crofting. However, as population pressures increased, certain landowners decided to divide the commons, primarily to establish rights of private property in order to protect their landed interests. In the more fertile areas this often coincided with the desire on the part of the lairds to improve the agricultural sector of their estates since Shetland's improved transportation

and trade links with Britain were now providing the necessary markets (see Ch. 10). By the end of the nineteenth century the age-old patterns of proprietorship were forced to change.

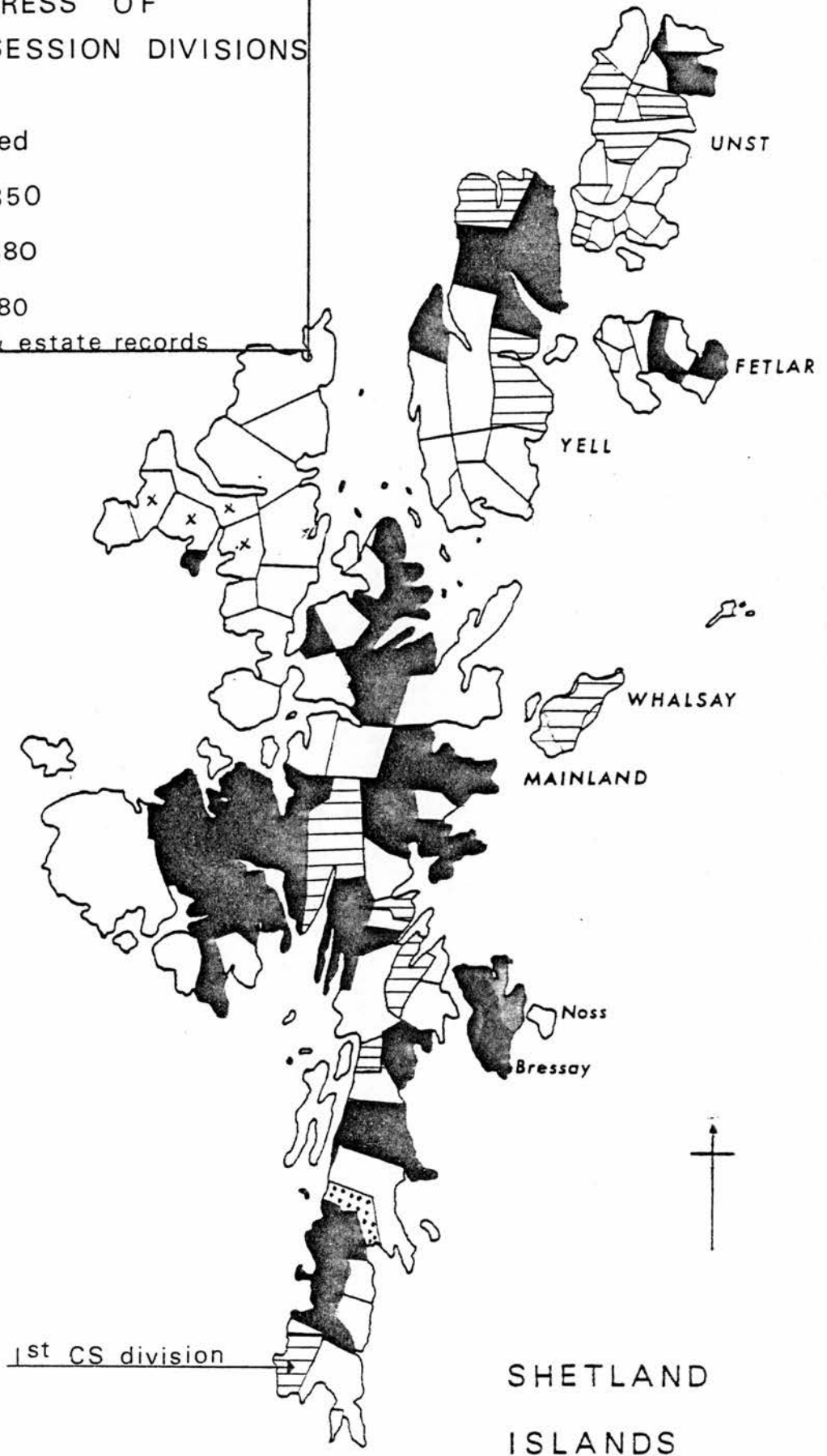
Divisions took place during the nineteenth century and although similar patterns emerged in their development, nevertheless, a wide diversity of motivation existed behind their occurrence. In Shetland, summonses in the Court of Session began to be raised in 1815 and over the following sixty-two years fifty-five scattalds were divided (Fig. 19). Although on a regional scale divisions in Shetland were relatively closely related in time, on a local scale, the impetus to divide came at widely separate times; while the majority of Shetland's division occurred from 1850 to 1880, parishes such as Dunrossness experienced scattald divisions as early as 1815 and as late as 1899. The earliest divisions in both the Sheriff Court of Session were scattered throughout Shetland and although stimuli varied a unifying force lay in the desire to create rights of private property. At Gluss, Northmavine a dispute developed between a major laird and a minor laird over property rights, while at Fitful Head, Dunrossness, differences developed concerning each proprietor's grazing rights. The former was settled by the Sheriff Court and the latter by the Court of Session. After this initial period, the frequency of division cases increased dramatically and commonties were divided throughout most of Shetland in a systematic manner reflecting the landowning and fishing interests as well as the agricultural potential of the area.

Throughout the division period two forces were important: the desire first to create sole rights of property and secondly to initiate agricultural improvements. As a result the movement appears

FIG.19 PROGRESS OF
COURT OF SESSION DIVISIONS

-  attempted
 1815 - 1850
 1850 - 1880
 post 1880

sources: CS, SC & estate records



rather complex. Two of the earliest Court of Session divisions occurred in the north island of Unst and in both cases the stimulus was provided by the lairds' desire to establish rights of private property in light of the discovery of the valuable mineral, chromate iron. During the process it was decided that the minerals be worked in common and that the profits be divided among the heritors in accordance with their individual rights and interests in the scattald.

During the 1840s the fertile valleys of Tingwall and Weisdale underwent a clarification of proprietorship. The land in these areas belonged primarily to minor lairds who possessed three things in common: capital, fertile land, and freedom from the truck system (refer to Smith, 1972 - specifically Ch. 5). These factors were instrumental in the landowners' decision to try to exploit their land at a very early stage in Shetland's agricultural development. One of the owners was William Hay, a merchant in Lerwick. The Hay family had acquired capital quite early in the nineteenth century from their involvement in the cod fishing industry and with this money they slowly began to buy up land in central Shetland. However, lacking vast amounts of land and tenants, merchants like the Hays were forced to lease tenant-fishermen from other lairds. This was to their advantage because by doing so they did not become burdened with the responsibility and expense that faced the large landowning families who were caught in the web of the truck system.

These minor landowners became interested in consolidating their small estates of prime land with the money that they made from fishing. Because their lands lay in close proximity to the ports of Scalloway and Lerwick, any agricultural products produced on their estates could be exported easily, unlike other areas in Shetland. These factors made it worthwhile for landowners to spend money on

estate consolidation and later on agricultural improvements. By a series of land sales and excambions more than half the scattalds in the area became privately owned by mid-century. Because these scattalds were relatively small with few proprietors, this informal system worked well. Later, others were divided by the Sheriff Court or alternatively by the Court of Session in processes that were both simple and straight forward due to the previous efforts. Once the proprietorship of these scattalds was clearly established the landowners often proceeded to establish farms on their allotments. Some of the earliest cattle and sheep farms in Shetland were established in Tingwall and Weisdale at this time. The Hay family created a cattle farm at Laxfirth and sheep farms at Dale and Veensgarth while David D. Black, an incomer from Brechin, Scotland, cleared his allotments in the Weisdale valley and supplanted his tenants with sheep. His was one of the earliest sheep farms in Shetland. Although evictions occurred elsewhere in Tingwall and Weisdale, little is known about them except for the documented case on the Kergord estate at Weisdale (see Ch. 14).

The period 1850 to 1880 was one of prosperity. Record fishings in the 1870s affected the islands by providing the needed capital for divisions. Consequently, processes occurred at a rapid rate with most landowners becoming involved in at least one division. The thirty years from 1850 to 1880 were the peak years for divisions in Shetland and the surveyors, valuers, and solicitors in the islands were provided with more work than they could often deal with. Divisions occurred primarily in the Court of Session since the stakes were high and the ownership often confusing, although the Sheriff Court was not altogether inactive. In addition to dealing with the usual land disputes, the Sheriff Court was also responsible for

the division of the large scattald of Walls. The landowners of Walls, aware of the costs of the divisions going on around them, agreed to the preliminaries of the division out of court probably in an effort to minimize their expenses.

Incentives for division during the peak years were twofold. First, there were those landowners whose prime concern was the fishing and their overriding interest in divisions grew out of the need to protect their landed interests by creating sole rights to property in light of increasing population pressure. In addition there were those lairds whose interests lay elsewhere; in the alternative land use of sheep farming. In both of these cases, the way in which the landowners dealt with their land after the divisions depended on their reasons for dividing in the first place as well as on the agricultural potential of their land. As population pressure increased on the west mainland (including the parishes of Aithsting, Sandsting and Whiteness) due to the combination of natural increase and the migration of labour in search of work in the fisheries, landowners moved to protect their landed interests from encroachment by dividing the commonties. Once these were completed few changes in the working of the land were implemented. Most of the landowners, whose primary interest and source of income came from the fishing by the tenant-fishermen, preferred to leave their tenants alone. Alternatively, if agricultural improvements were considered to be economically viable then landowners such as Mr. J. Garriock and Mr. A. Umphray of Reawick appropriated the land and instigated the necessary improvements. The tenants' souming rights on the hill were reduced, or the tenants themselves were simply relocated elsewhere on the estate.

During this period divisions also occurred in the parishes of Delting, North Yell and North Unst, and although they all were

important haaf fishing areas, incentives for division resulted from an interest in alternative land uses. The strong personalities of the three major lairds -- the Mouat Camerons of Garth, the Earl of Zetland, and the Edmondston family -- were responsible for the divisions in these parishes, along with many other minor landowners. Of these major landowners, the Garth estate and the Edmondstons of Busta both had a long history of estate consolidation, often with the view to agricultural improvement. Therefore, when interest in agriculture 'took off' in the 1860s, coinciding with Shetland's maximum population and the development of an infrastructure for trade, these landowners with land suitable for agriculture indulged in dividing the scattalds as well as in less formal methods of attaining the private ownership of the land. Once this was attained these men (who possessed no direct interest in the fishing and hence in retaining their tenant-fishermen) proceeded to clear large tracts of land for sheep farms. Some estates such as Garth had a policy of evicting tenants in areas where sheep farms were thought to be suitable; others such as Edmondston concentrated tenants in certain parts of the estate by removing tenants from one town and relocating them in another. Towns thus cleared were enclosed for sheep.

Some scattalds on the east coast in the parishes of Dunrossness, Bressay, Lerwick, Nesting and Fetlar experienced division towards the end of the division period. Like other parts of Shetland, these areas were involved in the haaf fishing but unlike the other regions, population pressure had not provided a critical problem. The land tended to be of a better quality than some of the other areas. Therefore when the population did reach its peak, the effects on the land were not so great as to provide conflict over ownership. Further, when Dunrossness for example, reached its maximum population

in 1871 (a decade later than most parishes) prosperity was resulting in population mobility. By the 1870s landowners as well as tenant-fishermen were better off economically than ever before and this resulted in greater mobility. For the first time in one hundred years Shetland's population began to decline as emigration accelerated (see Ch. 14; Fig. 40).

With the exception of Lerwick, the scattalds in these parishes were owned primarily by four of the old landowning families of Shetland -- the Bruces of Symbister, the Bruces of Sumburgh, the Nicholsons of Lochend and Fetlar, and the Earl of Zetland -- and without exception these families were instrumental in their divisions. In each case these families acted either as the pursuer or as the major defender. One of the most powerful landowners in the area was John Bruce of Sumburgh, a merchant-laird, whose interests were divided between fishing and agriculture. If, for example, land was needed to create a sheep farm, then Bruce would simply remove some hill land from his tenants' use. Of this Reverend George Clark wrote in his diary.

"When, however it was seen that something was to be made from sheep-farming, the hill pastures in several districts were taken by the landlords for their own use, and here and there all over the islands small crofts were thrown into sheep farms" (Clark, 8).

The hill land was not divided but merely confiscated from the tenants to make room for sheep farms. Where this occurred tenants had to make due with less land or be removed to other parts of the estate. Tenants of estates such as Sumburgh were rarely evicted. This was because the tenant-fishermen provided the merchant-lairds with both rental money and fish, and therefore they were much too valuable to evict.

In order to maximize his income from both fishing and agriculture, Bruce retained the old system of truck until eventually the system became obsolete. With the implementation of the Truck Commission in 1872 followed later by the Napier Commission in 1882, the fishing tenure system supported by a subsistence economy began to lose ground. It was the beginning of the end of the truck system. With it perished the role of merchant-laird and the barter economy came to be replaced by a monetary system. In addition, by 1870 fishing areas were seriously affected by the beginning of a drastic reduction in the total labour force as a direct result of emigration from the islands. By the 1880s the situation was compounded by a decline in the haaf and cod fisheries and this was closely followed by their collapse in the 1890s. As the old system with its dependence on the interaction between fishing and subsistence agriculture began to lose its importance, lairds like Bruce of Sumburgh decided to rid themselves of the the archaic communal ownership system. As a preliminary step to terminating the old agricultural order he and the other landowners clarified their land proprietorship in a legal sense through scattald divisions. The decline of the haaf and cod fisheries had finally forced these landowners to become involved in other interests and agriculture offered this alternative.

As the previous paragraphs have illustrated the commonties throughout Shetland were divided systematically. Shetland's prosperity increased in the latter half of the century and it provided a stimulus for the reorganization of the landscape in which the landowner played an important role. As pursuer, he initiated the legal action for a scattald division in the Court of Session or as defender he protected his interests. During the nineteenth century estates generally were not consolidated and therefore it was

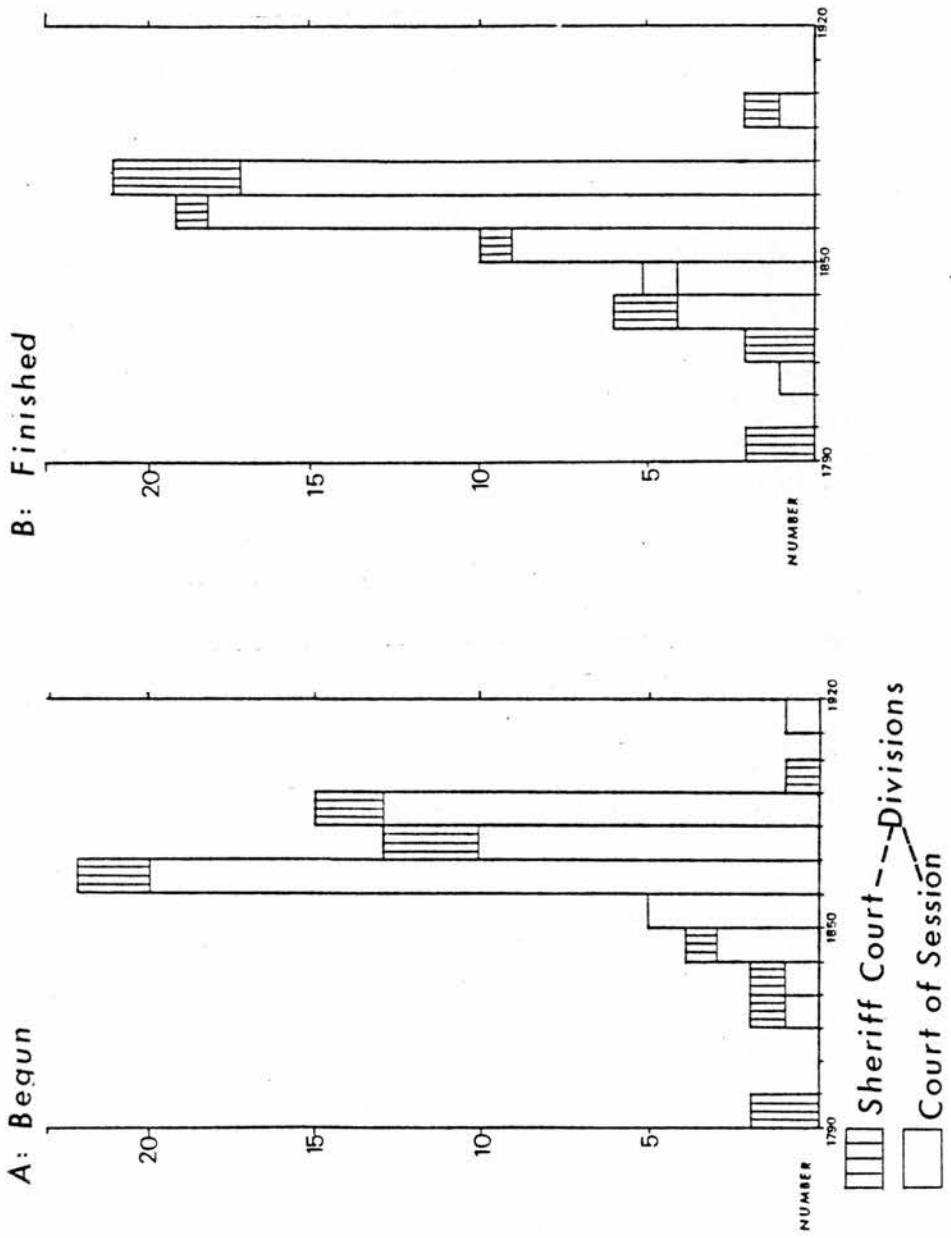
feasible for landowners, especially the larger ones, to own sections of land scattered throughout Shetland. Since landowners were required to take part in a division once it was initiated or forfeit their rightful share, it was logical that these major landowners were cited in case after case as either pursuer or defender. Men like the Earl of Zetland or Mr. Mouat Cameron who possessed holdings throughout most of the islands were named in numerous divisions. It is interesting to note that the major lairds very often appeared in the lists of defenders rather than as pursuer, and therefore it is a mistake to assume the pursuer to be the largest heritor in a division. This also occurred in (mainland) Scotland where all too often the smaller landowner took on some of the greatest landowners in the country to resolve divisions of commonalty (Adams, 1973, 308). Often the Garth estate, for example, was one of the largest owners in a division but more often than not it played the part of defender. While in some cases the strong personality of a local proprietor, such as John Bruce of Sumburgh, led to the rapid division of several scattalds in an area, in other cases evidence indicates that strong-willed factors were responsible. During the 1860s when Delting, North Unst and North Yell were divided, the Garth estate was managed by its factor, John Walker, a 'soothmoother' from Aberdeenshire. It was he who convinced Thomas Mouat Cameron to proceed with scattald divisions since agricultural improvements such as sheep farms -- a common sight in the south for one hundred years -- were now economically viable for Shetland.

By the 1860s the reorganization of Shetland's landscape was progressing rapidly; scattalds were divided and thousands of acres were allocated to private use. If there were few heritors with no major conflicts a scattald was divided by the local Sheriff

Court, but if the converse was true then the division fell under the jurisdiction of the Court of Session. By 1877, however, the Act of Division of Commonalty 1695 was amended to give the Sheriff Court the legal power to hear division processes where the scattald rent did not exceed £50 per year or £1,000 value while the Court of Session was relieved of this task (40 & 41 Vict., cap. 50, sect. 8(3)). The effect of this legislative change on Shetland scattald divisions was almost negligible. During this period many of the functions of the Court of Session were devolved to the Sheriff Court as part of a general court reform. Since the divisions were virtually complete, the act which applied was swept along with others into the Sheriff Court. In essence, it was a 'tidying-up' act and therefore the fact that so little happened subsequently is not important.

The progress of divisions in the nineteenth century can be plotted graphically to illustrate the division commencement and completion dates which establish those divisions affected by this alteration in law (Fig. 20). The graph showing the scattald division commencement dates indicates that five divisions were instigated in the Sheriff Court after 1870 while the Sheriff Court processes record that only two of these five were actually begun after 1877. Wilhelmina and Otterswick scattald in Yell was the only one that appeared to have been divided under the new act through the Sheriff Court, although this is not known for certain because the Decreet was never registered (SC12/6/126 Division of Otterswick & Wilhelmina-Charles Robertson v. Magnus Clark & others 1879-86; SC12 53/14 Contract of Excambion-Ogilvy v Thomason 1880). Sound scattald near Lerwick was the other division that began in the Sheriff Court after 1877, but it was divided by a Decree Arbitral as it could have been prior to the amendment. The graph also shows that ten divisions were insti-

FIG. 20
NUMBER OF SCATTALD DIVISIONS



Sources: CS & SC Processes, Register of Deeds, Estate Records, RHP

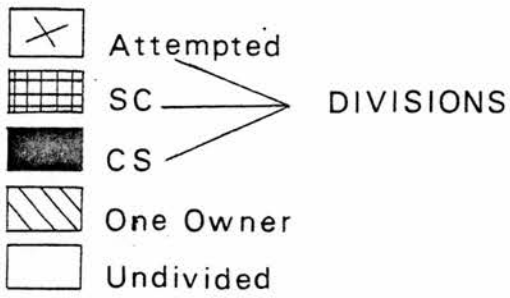
gated in the Court of Session after 1870 and of these seven were instigated after 1877. It would seem, therefore, that the amendment whose purpose was to simplify division procedures by bypassing the Court of Session was little used in Shetland. As for Scotland, only one case has been found to date that was resolved in the Sheriff Court under the 1877 act (Adams, 1973, 314).

By the time the change was legalized the bulk of the scattalds were either in the midst of a division process or already divided. Those that remained were left undivided and many remain so today. Although in Scotland multiple landownership is almost extinct, in Shetland there are areas such as Northmavine, south-west Yell, west Delting, and south Unst where the scattalds never underwent a division process (Fig. 21). Northmavine and west Delting were owned primarily by the Busta estate who in turn leased its land and tenants to four major merchants in the area. These four men, who virtually controlled this vast expanse of land and its population, were interested solely in the profits to be made in the haaf fishing. Therefore, they had a vested interest in retaining the subsistence agricultural economy that supported the fishing for as long as possible. In order to support such a system the continued use of the scattald was essential, and because the land was of such poor quality the traditional form of multiple ownership was seen as the most efficient way in which to use the land. As for south-west Yell and south Unst, little is known except that many of the scattalds were owned primarily by major local landowners. Many of Unst's scattalds remain to this day.

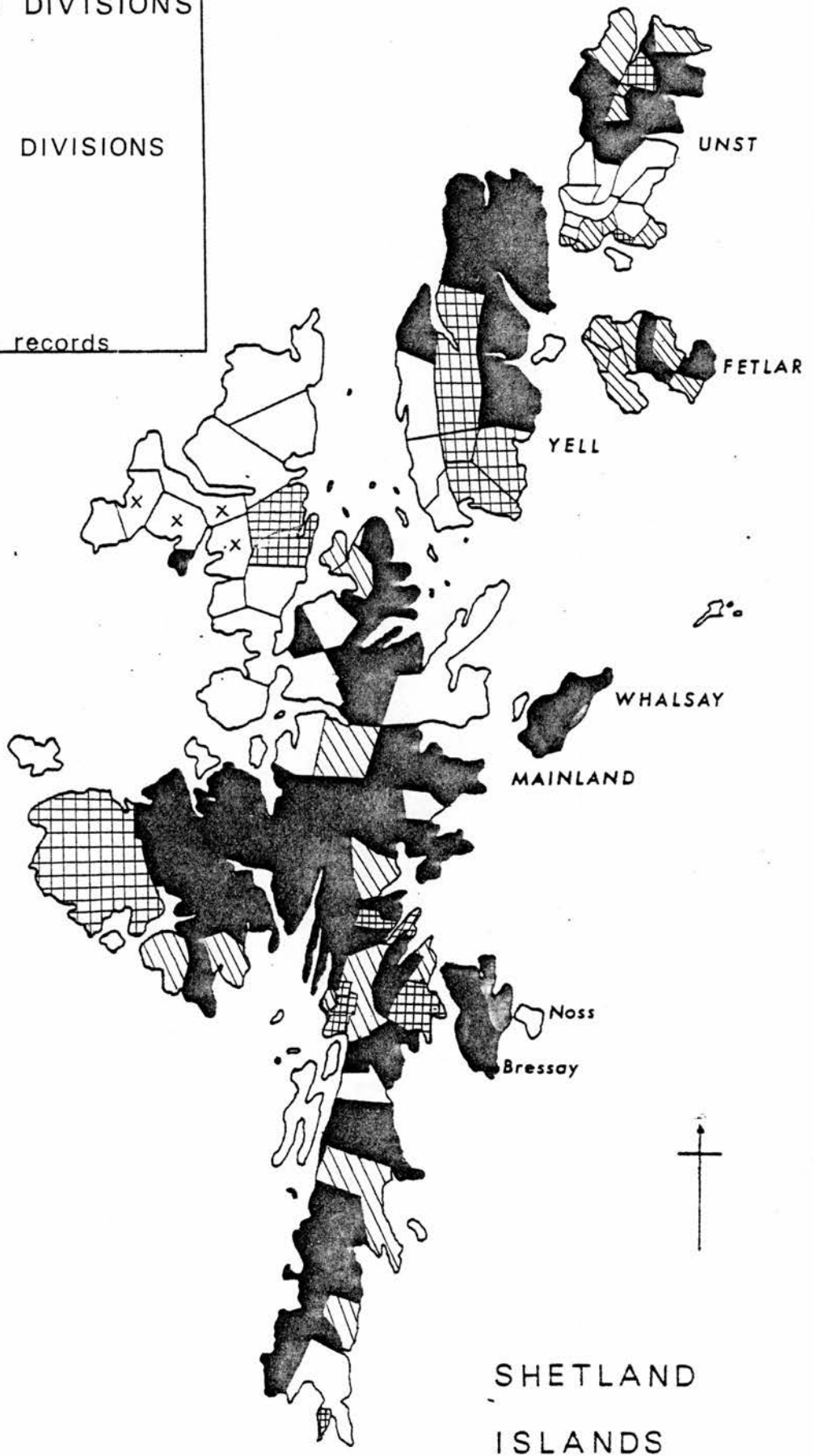
Although the division process was slow commencing in Shetland, once underway the majority of the common grazings were swiftly allocated to individuals. While the overriding concern of the

FIG. 21

SCATTALD DIVISIONS



sources: SC & CS records



Scattald Boundaries

0 10
miles

landowning class was to protect their landed interests by creating private property there were those who, once the land was divided, took advantage of their estate's agricultural potential by creating farms. How individual parties reacted to the concept of division depended on their landowning and fishing interests and how suitable the surrounding scattald and township were for improvement. These in turn reflected the local conditions at the time. Population peaked, transportation improved, and the economy reached a healthy state as the division movement reached its zenith. By the end of the century one hundred and one of the one hundred and twenty-seven scattalds were privately owned in the eyes of the law.

Land Proprietorship Resolved

"One must never underestimate the influence of law upon landscape. Cultural forces, as well as natural forces, make their imprint on the face of the earth, one obliterating the other, and the geographer is faced, in his interpretation of the landscape, with forces which, in the passing of time, can bring about total change in all that we survey." (Adams, 1973, 314).

Although Dr. Adams wrote this with the Scottish landscape in mind, the same could be said to a lesser extent of Shetland. The division of scattalds by various methods previously mentioned was a long involved process spanning one hundred years. In the end, a minimum of 35 percent of the land area of Shetland is known to have been legally divided. Further analysis involving the Sheriff Court records and private estate papers has shown that still other scattalds, or parts thereof, were divided either by the local sheriff or by informal procedures without of court, but unfortunately mention of the acreages involved is seldom made. Nevertheless, even taking the minimum figure of 35 percent as a basis, the impact produced by the in-





fluence of the law upon the landscape was considerable. (Fig. 22).

In Shetland the commonry was essential to the working of its fishing-subsistence economy by providing the basic necessities of food, fuel, and shelter. Unlimited numbers of animals grazed on the hills, peat provided free fuel for any strong enough to cut it, and stones, turf, thatch and heather were all the materials necessary to build a cottage. Thus the role played by the scattald was crucial for the survival of a subsistence economy. However, as population increased and prosperity and transportation links improved, the Shetland proprietors, enamoured with the concept of private property and the quest for profit, tried to render the scattalds obsolete.

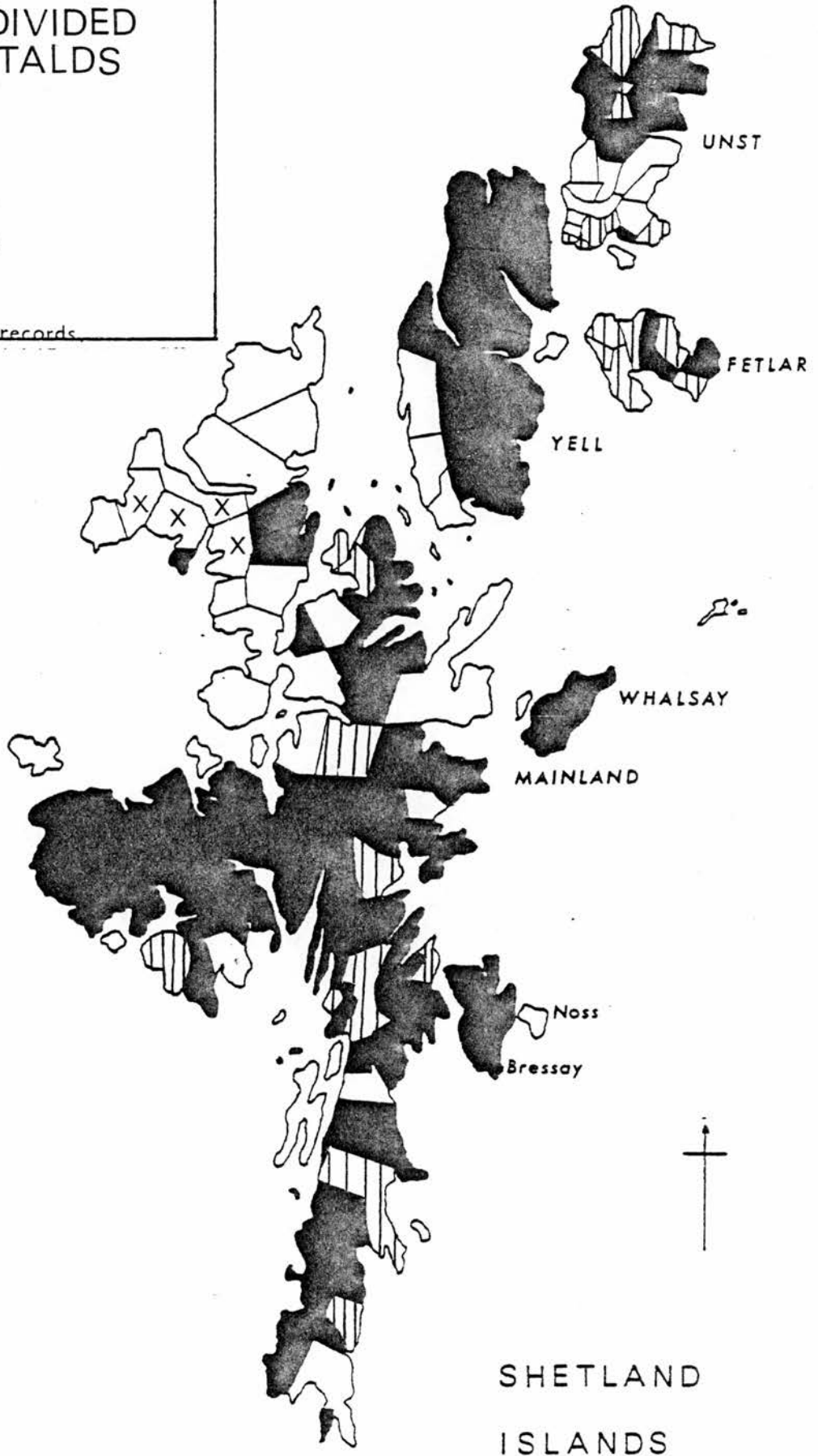
Prior to the mid-nineteenth century divisions were haphazard. The desire to divide stemmed from the heritors' wish to consolidate and increase their estates. In a few cases the landowner's decision to divide was simply a defensive tactic to rescue his share of the scattald before informal enclosures reduced the scattald to nothing. In both cases the divisions were local in nature involving local proprietors, surveyors and valuers. The records in existence clearly show that the process of converting scattalds to private property had begun at least fifty years before the implementation of the 1695 Act in Shetland.

By 1850 divisions were securely underway in the Court of Session and once initiated rapid division of the majority of the scattalds ensued. Landowners articulated the condemnation of scattalds and their division was viewed as the principle means of ending an archaic system of proprietorship in favour of private property followed by agricultural improvements. Little heed was paid to the tenants' displeasure at the loss of their rights of common usage and at the upheaval caused by the resettlement of townships and consoli-

FIG. 22**LEGALLY DIVIDED
SCATTALDS**

-  DIVIDED
-  ATTEMPTED
-  ONE OWNER
-  UNDIVIDED

SOURCES: SC & CS records



dation of farms, although in Shetland these changes occurred on a rather small scale when compared with mainland Scotland. The Minutes of the Truck Commission, and more importantly of the Napier Commission, record in great detail sufficient evidence of the tenant farmers' point of view concerning these events. In some areas the tenants of an estate managed to seek their revenge on the laird for the part he had played in creating social unrest. By the end of the nineteenth century the agrarian revolution had finally reached Shetland: rotation of crops, enclosures, leases, drainage, and new implements and products materialized, at least on a limited scale, and the division of scattalds represented just the beginning of these changes. The landscape of the Shetland scattalds, "...having existed since the era of Norse settlement was erased as the parties began the process of marking off their allotments" (MacGregor, 1976, 58). In areas where the land was fertile the tenants saw their free fuel and building materials disappear as their landlords followed up divisions with enclosure and improvements; meanwhile in the predominantly fishing areas where land tended to be of poorer quality, little changed.

CHAPTER 9

THE PROFESSIONALS

By examining the Court of Session and Sheriff Court records it is possible to substantiate the claim that land surveyors and valuers were more instrumental than mere technicians in the division process, and that their influence brought about economic and geographic change as a result of divisions in parts of Shetland during the late eighteenth and nineteenth centuries. This can be achieved by analyzing the development and nature of the two distinct professions of land surveying and valuing in Shetland. The land surveyor was most important in the process of division because he was responsible for the completion of an assessment and survey of the land, and in this task he was usually assisted by two valuers. In Shetland, the land surveyor and valuator were employed by the courts to deal with land disputes or divisions and only occasionally were they hired to straighten estate marches or establish field layouts. Register House Plans and Court of Session processes held in the Scottish Record Office, along with the Sheriff Court records, and the maps and plans contained within the private estate records of two Shetland surveyors -- Thomas Irvine and Andrew D. Mathewson -- were useful in examining the land surveying and valuing professions. In addition these sources were invaluable in documenting the legal change from multiple to private ownership and the geographical changes that followed. By the end of the 1880s most of Shetland had been divided and mapped with varying degrees of accuracy as a result of the combined efforts of the valuers and surveyors. Therefore, in order to fully understand the division process it is important to consider these professionals who influenced the process throughout.

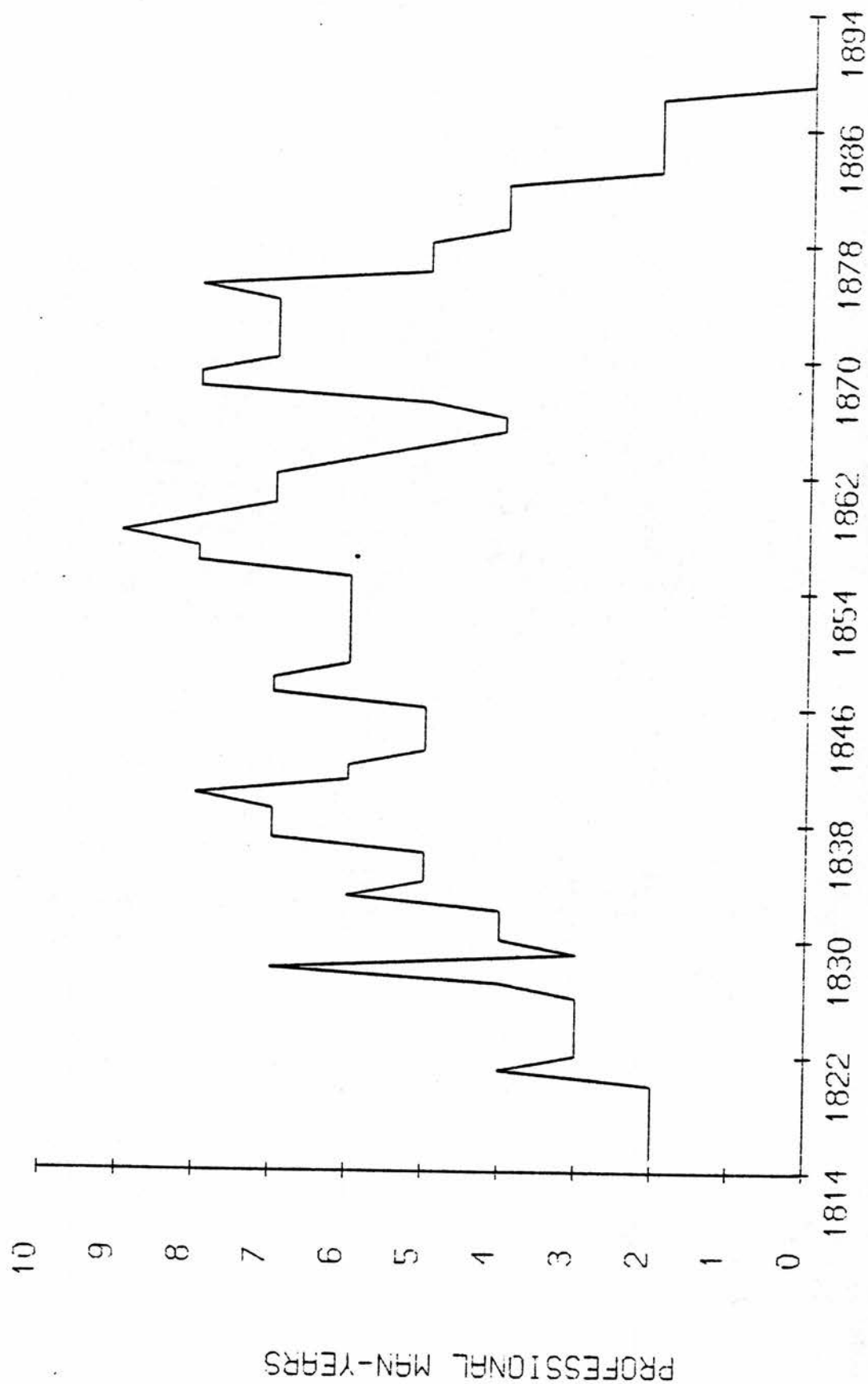
Valuators

By 1815 the job of valuator had become a recognized profession in Shetland (Fig. 23). Generally one or two valutors were chosen by the surveyor to value the land in a division. Previously, the professions of valuator, surveyor, and land measurer were not clearly defined and a lack of distinction between their tasks prevailed. Thus in some of the early Sheriff Court division cases one or two men were chosen to serve in the dual role as valuator and surveyor. Since the landowners did not appear to be overly concerned with acquiring a detailed analysis it was assumed that the land measurer could provide both the survey and valuation skills necessary in order to complete the division (SC12/6/045 (3273); SC12/53/6 Un-girsta Division; D8/210, 215; Edmondston-Mouat to T.Edmondston 14 Dec. 1823). Often landowners would seek the opinion of a valuator (or surveyor) regarding a pending decision and in this way they became decision makers (D8/394 - book 1 p. 180 Bruce to Jarmson 1865, book 4 p. 653 Bruce to Jarmson 1870, book 6 p. 643 Bruce to Jarmson 1873).

Later as Shetland's economic opportunities improved and outlets for agricultural products developed and expanded, the desire for more detailed surveys increased. As an obvious extension to this valuation began to be recognized as a separate profession, important in its own right. The first mention of the employment of valutors per se occurred in 1815 during the division of Fitful Head, the first Court of Session division in Shetland (Bruce v Grierson - CS44 11/7/1826). In later years the cost involved in hiring two professional men occasionally inhibited landowners from doing so especially if their case was pending in the local Sheriff Court where costs could be kept to a minimum (for example: Scatness Division - TI

FIGURE 23.

THE GROWTH OF THE VALUATOR PROFESSION IN SHETLAND,
1815 - 1890, MEASURED IN MAN-YEARS.



392/4; SC12/53/13; GD144/247) although for the most part the divisions that occurred during the nineteenth century tended to involve both a surveyor as well as valuers. It is interesting to note that no mention of valuers appears among the several works written about divisions on the Scottish mainland. Munro (unpublished Ph.D. in progress) in his study of the Strathspey estate notes in his conclusion on surveyors that they were responsible for "an authoritative survey and assessment of the land". It would seem, therefore, that surveyors on mainland Scotland both assessed and surveyed the land.

Of the thirty-seven valuers operating in Shetland between 1815 and 1890 twenty-four were Shetland farmers (tenants or small land-owners), six were schoolteachers, four were land surveyors and the remaining three held various jobs (jail keeper at Fort Charlotte, merchant, shepherd). An examination of the division processes among the Court of Session and Sheriff Court documents along with various maps made the compilation of a list of valuers possible (Table 5).

Farmers decided to become valuers in order to acquire the coveted cash payment. If one was a diligent and industrious farmer the job of valuer could be quite easily accommodated within the slack periods of the agricultural cycle since valuations and surveys generally occurred during the early spring and the late autumn (D8/394 book 1 p. 623 Bruce to A.D. Mathewson, book 6, p. 339). As valuers, farmers were invaluable to the surveyor because of their intimate knowledge of the landscape and its potential. They were highly qualified in their task which was "...to value the several parts and portions of the said scattald according to what they considered their true agricultural value to be..." (Henderson v Cameron - CS46 22/4/1850 Report of Valuation June 1844). They would then "...point out upon the ground to the surveyor the boundary of each section that he might

187
TABLE 5
VALUATORS OPERATING IN SHETLAND

VALUATOR	YRS. OF WORK
Coyne, Robert Edinburgh. Surveyor, Civil Engineer	1858-1862
Craigie, William North Yell. Schoolmaster	1847
Dickson, Adam Effirth	1868-1875
Dickson, Walter Vementry	1821
Forsyth, John Yell. Shepherd	1833-1848
Garrock, Laurence Sandsting. Farmer	1828
Grant, John Lerwick. Farmer	1815-1840
Houston, John S. Yell. Schoolmaster	1856-1869
Inglis, D. Weisdale. Farmer	1877-1888
Irvine, Alex Lunnasting. Farmer	1828
Irvine, Thomas Yell. Landowner, Surveyor	1837-1875
Jaffrey, James Unst. Farmer	1861-1882
Keith, George Yell. Farmer	1867-1888
Laing, Robert Gulberwick. Schoolmaster	1868-1878
Laurence, William Dunrossness	1875
Laurenson, Fleming Lerwick. Jail Keeper	1848-1882
Laurenson, Peter Gremister. Farmer	1830-1859
Leisk, Joseph Uya. Farmer, Tacksman	1837-1864
Leisk, Thomas Uya	1822
Linklater, Thomas Walster	1828
Low, John Asta	1877
Merryless, William Gremister. Farmer	1830-1858
Miller, J.D. Kirkwall, Orkney. Surveyor	1856-1863
Mouat, Charles Unst. Farmer	
Nicolson, Andrew Sandstin. Farmer	
Pole, William Cullivoe. Merchant	1847
Sinclair, Laurence Baliasta. Farmer	1848-1860
Sinclair, Thomas Dunrossness. Farmer	1833-1840
Strong, James Dunrossness. Farmer, Tacksman	1815-1833
Sutherland, John North Yell. Schoolmaster	1859-1861
Tait, Peter	1840-1842
Taylor, Francis Orkney, Farmer	1868-1876
Thomson, Michael Lunnasting. Farmer, Schoolmaster	1828
Tulloch, James Bixter. Factor	1821
Williamson, James Taing	1859
Williamson, John Aithsting	1827
Winwick, Magnus Unst. Schoolmaster	1823-1829

Sources: RHP; SC, CS, and estate records.

measure and lay down the same accurately on the map of survey..." (CS46 22/4/1850). Farmers who spent their lives dealing with the land and who were highly regarded by the community were chosen to appraise the relative worth and value of each section for agricultural purposes and this they did fairly and justly. Relatively few conflicts arising from scattald valuations supports this view.

Schoolteachers, who were also respected within the community, constituted the second category of Shetland valuers. Familiar with and perhaps qualified in the application of mathematics they were capable of assisting the surveyor; and as locals they were intimately familiar with the landscape and its potential -- although perhaps less so than the farmer.¹ This latter aspect might not have been considered in a negative sense but might have rather worked to the schoolteachers' advantage enabling them to express a more objective viewpoint. An additional incentive that "...compelled [teachers] to exert their best efforts along some other line of endeavour in order to make a modest living..." (Richeson, 1966, 142) was that they were in general, poorly paid and valuing represented a way of supplementing their income from teaching.

The professions of both valuing and surveying were respected within the community although that of land surveying which involved a greater degree of responsibility and skill was definitely more remunerative. This latter point is supported by various examples such as that of the Whiteness division: the valuator, Thomas Irvine, was paid £16 while the surveyor, J.S. Houston received £65 (Gifford v Zetland - CS46 25/3/1875). With this in mind it is interesting to note that few valuers made the transition to land surveyor. During

¹A.D. Mathewson, for example, was reputed to be both a teacher of navigation and of land surveying (Tait, 1947, 3, 12-13; Graham, 1968, Hairst, 86, 17-18).

the active years of division two of the five schoolteachers -- John S. Houston of North Yell and Robert Laing of Gulberwick -- did operate as surveyors as well as valuers. Houston had often served as valuator for the Edinburgh surveyor, Roderick Coyne, during the years 1856 to 1869. However, by 1871 it was recorded that Houston was the surveyor for two Tingwall scattald divisions pending in the Court of Session. Between 1873 and 1882 Robert Laing surveyed the Gulberwick and Bressay scattalds for division. Consequently, during the 1870s both these active men held three jobs concurrently: schoolteacher, valuator, and land surveyor.

During the "boom years" of 1860 to 1880 when the majority of the divisions occurred, four of the land surveyors also doubled as valuers. The two Orcadian land surveyors active in Shetland's divisions, Francis Taylor and J.D. Miller, along with Roderick Coyne of Edinburgh and Thomas Irvine of Shetland were the land surveyors who managed this dual role.

Initially, valuers for runrig or scattald divisions tended to be chosen from among the local population (e.g. ADM - Report of Division of Geraldsta, Tingwall 1828). By the second half of the century, perhaps as a precaution to avoid bias or favouritism in the division process or perhaps purely as a result of a shortage of 'qualified people', the valuers often had to travel great distances from their homes to help with a survey. This meant that they were repeatedly away from their homes while involved in surveying. An extreme case of the distances travelled by some of these men is represented by the valuator Thomas Sinclair, a farmer in Dunrossness, who in 1833 was chosen by William Matheson (a land surveyor from Edinburgh) as a valuator in the Haroldswick scattald division in Unst at the opposite end of the islands.

The core of active valuator's who operated during the major scattald division period consisted of seven men: five farmers and two teachers. Three men in particular, James Jaffrey of Unst, George Keith of Yell and Joseph Leisk of Unst acted as valuator's more frequently than the others. During his twenty year career James Jaffrey valued a total of 37,000 acres of scattald land, more than any other valuator (CS & SC process, 1861-82). Both he and Joseph Leisk were farmers on the Garth estate in Unst, one of the largest estates in Shetland whose owner, Mr. Mouat was a prominent land improver. It is interesting to note that the islands of Unst and Yell produced more than their share of valuator's: Unst six and Yell seven. Perhaps this can be explained by the fact that the inhabitants of both islands were actively involved in the division process. As was previously mentioned, the Mouat family (Garth estate) owned a considerable amount of land in Unst and was concerned with improving the agricultural situation in the islands (Wills 1975), while Yell was the home of Shetland's two major land surveyors, Thomas Irvine and Andrew D. Mathewson. In addition some of the earliest scattald divisions via the Court of Session occurred in Unst. Thus, these islands served as the training ground for many a Shetland valuator.

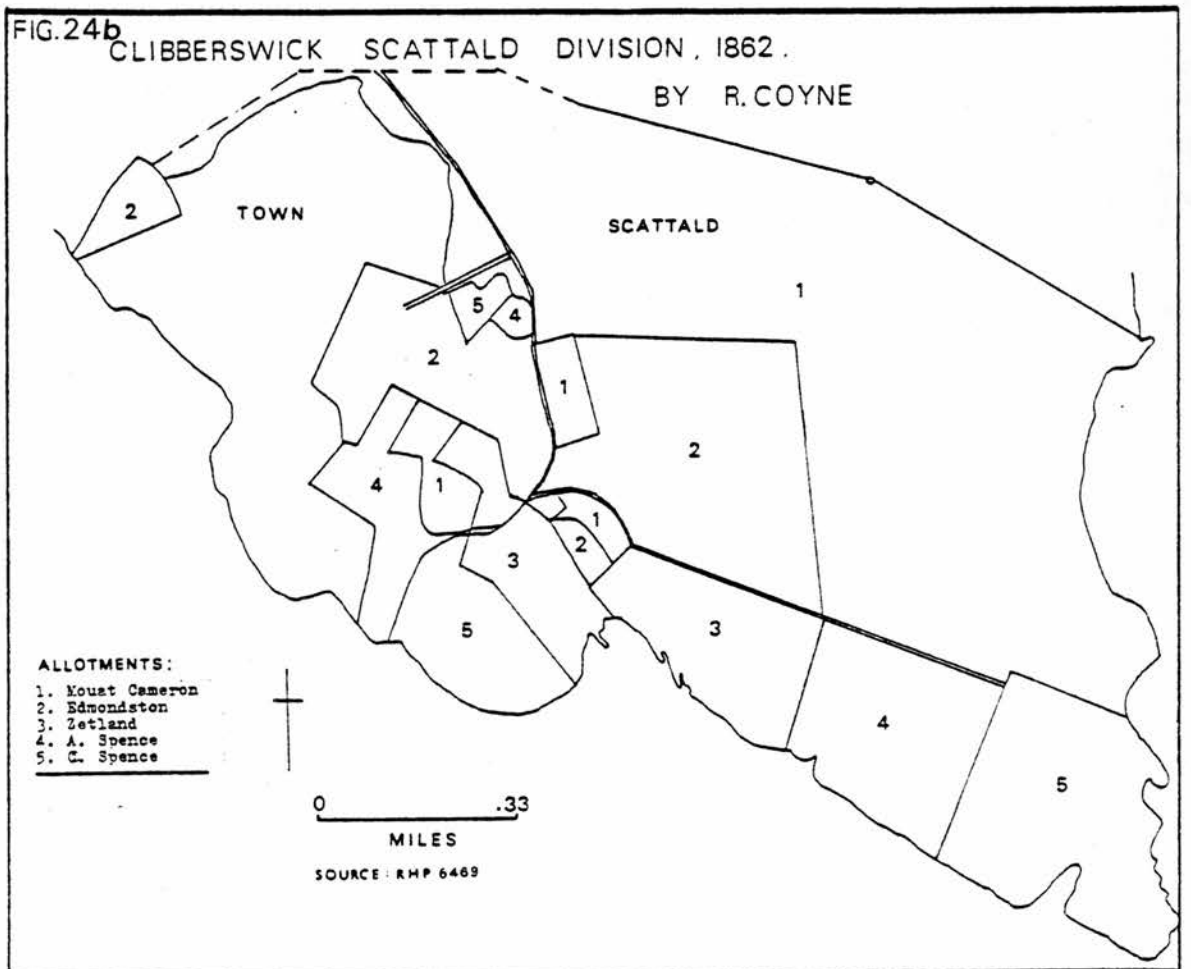
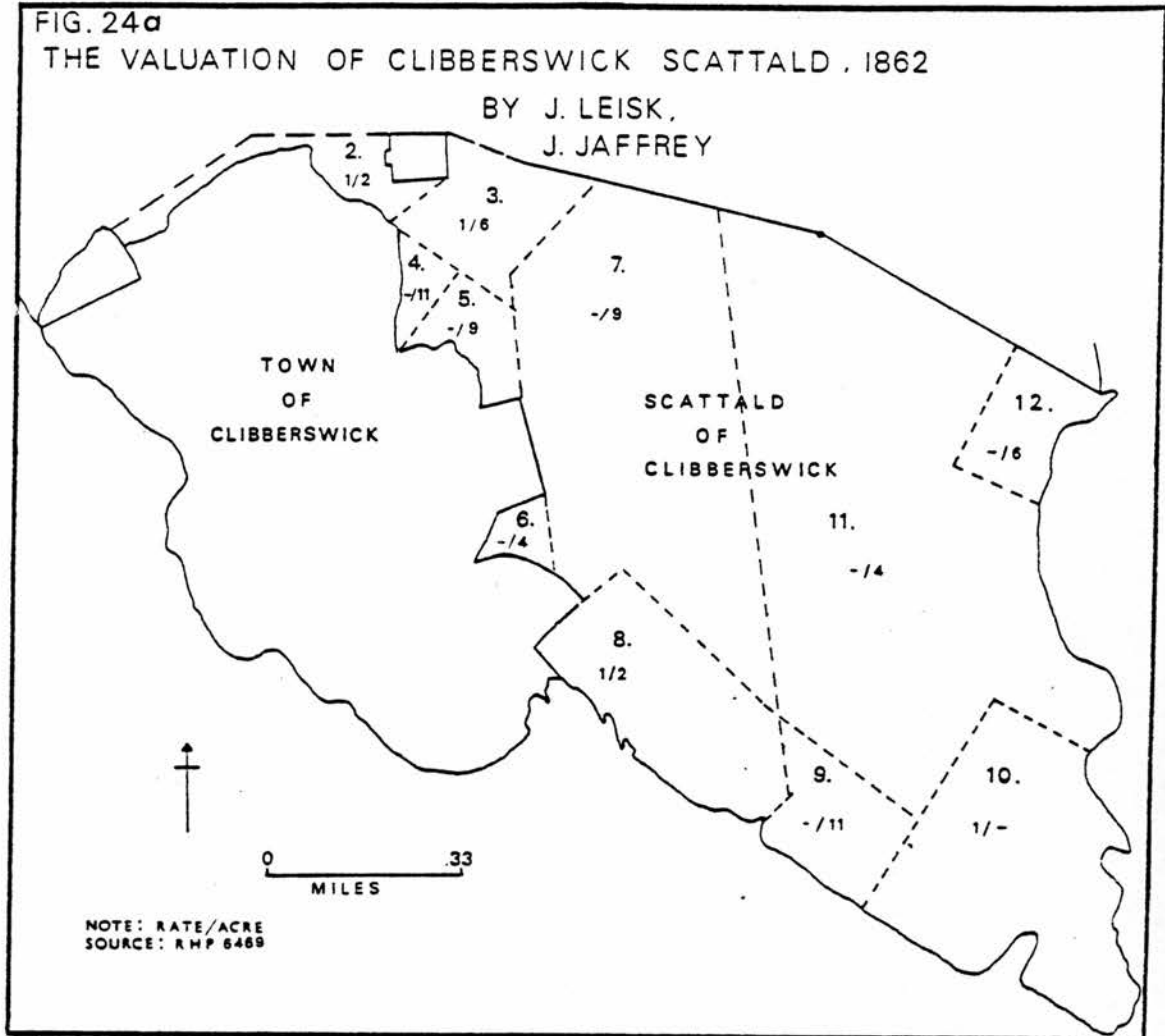
Prior to the scattald divisions no proper valuation of Shetland lands existed other than a valuation of the lands by merk. Therefore a valuator was essential in establishing a valuation of the lands upon which a division could be based (Bruce v Grierson - CS44 11/7/1826). Once the scattald had been surveyed and measured the valuator's accompanied the surveyor to value the scattald. The "Report of Valuation of the Scattald or Commonly of South and North Hammersland, Easthouse, Wadbister and Vatster" by Joseph Leisk, tacksmen of Uya, and Fleming Laurenceson, keeper of the Jail at Fort

Charlotte, provides an example of such a valuation account.

"On the 31st day of May 1853 the Reporter proceeded to the ground forming the subject of Division, accompanied by Mr. Thomas Irvine of Midbrake the surveyor; who pointed out the boundaries, and localities of every part thereof; and after having perambulated every part of said scattald; and divided it into such numbers of sections as could indicate difference of quality; they proceeded to inspect and ascertain the Relative quality and worth of each section, as respects surface, subsoil, situation and susceptibility of improvement; and after the most mature consideration and repeated comparisons they have valued the several sections as follows in sterling money..." (Hay v Mouat - CS46 116/3/1854).

As the above quote indicates a valuator's job was to accompany the surveyor as he perambulated the scattald "...and after giving the most careful attention to the quality of pasture and soil...to establish the relative value...of each section..." at various rates per acre (Zetland v Nicolson - CS249/7694A; CS249/7964B Valuator's Report 1873 p. 1). Each type of land was considered individually as a separate subject of valuation for example, "...valuing the peat moss below the surface at its relative worth comparing one piece of peat moss with another keeping in view, the quality as well as the quantity, and depth of the moss" (TI 389/35). With the valuator's advice the scattald was then divided into lots or sections which were valued according to the relative value of each section (Fig. 24a; see p.201 below). The valuers also provided expertise by assessing the nature of the soils, the quality of the vegetation and the potential of the arable and grass lands for improvement.¹ Occasionally a valuator would pass judge-

¹While surveying and valuing Scatness scattald Thomas Irvine gave a qualitative assessment of the soil moisture (RHP9105). While surveying and valuing the townships of Udhouse and Mossbank he gave the occasional verbal description of vegetation quality (RHP9141).



ment of some piece of land, for example, by saying that "...some of the enclosed land cannot be improved..." (Grierson v Zetland - CS46 28/8/1878 Report of Valuation 1875). During the division of Sand and Semblister scattalds, Sandsting valuers such as Roderick Coyne and John Houston considered each section in light of its possibilities for cultivation, and they established a scale which reflected the agricultural fertility of any given piece of land (Dickson v Leask - CS46 107/7/1862 Report of Valuation 1860). The final stage of a division process was for the surveyor and valuers to divide the land among the heritors in the presence of the commissioner and agents representing the parties. Some scattalds such as Baliasta, Unst, underwent three divisions before an agreement could be reached as to the allocations each heritor was to receive.

The valuers, who were for the most part indigenous to Shetland, played an important role in establishing the monetary value of the land. In doing so they were indirectly analyzing the nature of agriculture in Shetland, as well as advising the landowners on land use.

Surveyors

Like Shetland, Scotland had virtually no land surveyors before the eighteenth century primarily because there was little agricultural change (Adams, 1975a, 15). However, by the 1720s the profession had established itself on the mainland. Although the surveying profession began in Scotland in the 1720s and extended until the 1840s it was not until the late eighteenth century that the profession finally established itself in Shetland. Because the activities of agrarian improvement, in this case the division of scattalds, were not in full swing in Shetland until the nineteenth century, the development of the Shetland land surveying profession presents a

slightly different picture from that of Scotland.

Initially, the profession in Shetland involved only a few indigenous people while in contrast some of the earliest surveyors active in Scotland were imported from England (Table 6; Adams, 1968, 249). Generally, however, the development of the profession in Shetland although displaced by a time lapse of almost one hundred years represents an interesting parallel to the (mainland) Scottish situation in many ways. Often a surveyor produced a few plans and then he would disappear from the records. Not until the 1830s (one hundred years later than their Scottish counterpart) is a career spanning more than ten years recorded in Shetland. (By then Thomas Irvine had established himself as a land surveyor; he continued as one until 1879). The land surveyor, also known in the early years as the land measurer and in later years as a civil engineer, was instrumental in creating the new landscape by bringing new ideas to fruition.

"The job of a surveyor and valuator was one that demanded technical skill, mental ingenuity, diplomacy, responsibility and an ability to stand the rigours of travel" (Fenton, 1978, 87).

Since men of this calibre were rare, land surveyors came from a variety of backgrounds including schoolmasters, tenant farmers, solicitors, lesser landowners and shipmasters (Table 6). Because of their different backgrounds these men were "...variously qualified, sometimes amateur... [and they] had to have the ability to measure land, use instruments, and present results accurately, to draw maps, and often value judgements as to the quality of the land, all this requiring skills of a high order" (Millman, 1975, 106,; also Adams, 1968, 248). These men recorded the existing landscape often complete with a valuation of the ground and recommendations for future improvements. Although resulting plans, maps and working sketches varied in

Table: 6

Surveyors or Land Measurers Operating in Shetland

Surveyor	Yrs. of Work	Acres Surveyed (Min.)
Anderson, Gilbert Busta	1800	19946
Coyne, Robert Edinburgh, Civil Engineer	1858-1869	1365
Crawford, William Edinburgh	1815-1826	
Hawick, Andrew Swinister, Northmavine	1791-1800	
Hedde, Malcolm Kirkwall, Orkney	1900-1911	
Hepburn, James Lerwick	1877-1890	31295
Hoseason, Hosea Yell. Landowner	1804	
Houston, John North Yell. Schoolmaster	1871-1875	303
Hutcheson, John Cunningsburgh	1795	
Irvine, Joseph Gott, Tingwall	1874-1902	330
Irvine, Thomas North Yell, Landowner	1822-1879	10531
Jarmson, Adam Cunningsburgh. Grounds officer (Sumburgh estate)	1865-1873	
Johnson, Laurence Lunna	1791-1794	
Laing Robert Gulberwick. Schoolmaster	1840-1882	1821
Leask, J. Lawrence Cunningsburgh. Shipmaster	1791-1797	
Mackenzie, George	1874-1878	16401
Matheson, William Edinburgh, Thurso, Orkney	1833-1840	4710
Mathewson, Andrew D. Yell. Schoolmaster	1826-1867	14925
Miller, J. D. Kirkwall, Orkney	1872-1880	1811
Roger, G. Cooper Aberdeen	1867-1873	10164
Sievwright, William Lerwick	1825-1831	
Spence, Gilbert Hanner	1840-1842	1907
Taylor, Francis Kirkwall, Orkney. Farmer	1873-1876	9374
Winwick, Magnus Unst. Schoolmaster	1823-1825	

Sources: RHP, SC, CS, and
estate records

style and level of skill, nevertheless they all represented a form of rural planning.

Surveyors were often in the forefront of change and directly influencing landowners in their decisions concerning land reform. Andrew Mathewson was one such surveyor.¹ In a letter written to Andrew Grierson accepting the job of planking the Quendale estate, Mathewson revealed his strong views concerning enclosure and improvement.

"...am glad to find you inclined to accommodate an active population rather than sheep...The runrig system is generally disappearing. Under it there was little encouragement for either draining, trenching or enclosing and of course irrigation, top-dressing [fertilizer], rotation of crops and raising of grass and cattle are still very imperfectly known." (ADM - A.D. Mathewson to Grierson 1867).

Mathewson also wrote later to another landowner, John Bruce of Sumburgh, offering advice. Bruce, who had recently displaced the tenants of Fair Isle to Nova Scotia² requested Mathewson to accompany him to the island to measure and divide it. In his response Mathewson strongly expressed his views concerning evictions and depopulation.

"There is a relief nearest both for you and them than Nova Scotia --- This is by raising a new Hill Dyke...and dividing it into farms to serve for the expansion of population for centuries to come." (ADM - A.D. Mathewson to Bruce 1868)

As previously mentioned, the earliest land measurers in Shetland

¹Two articles have been written about Andrew D. Mathewson: Tait, W. Robert. "Andrew Dishington Mathewson", The New Shetlander 3. May, 1947, 12-13; Graham, John. "Profiles of the Past-Andrew Dishington Mathewson". The New Shetlander. Hairst, 86, 17-18.

²References disagree on whether the tenants emigrated to Nova Scotia or New Brunswick (D8/348 Bruce to Fraser 29 Jan. 1862; ADM - A.D. Mathewson to Bruce 1868).

were drawn from the local population. When runrig divisions began in the 1790s, the men primarily involved were the lesser landowners and tenant farmers; men like Gilbert Anderson of Busta, Andrew Hawick of Northmavine, J. Hutcheson of Cunningsburgh and Laurence Johnson of Lunna. Unfortunately little is known about these men other than their names, where they lived, and in a few cases, their occupation. Nothing is known about how the first ones learned their surveying skills. Such surveyors were usually assisted by the old men of the township. As interest in land increased, demand was placed on these measurers, not only to survey the township lands, but also to deal with the clarification of scattald boundary disputes and by the end of the decade men like J. Laurence Leask were also measuring scattalds for division. The first scattald divided legally was that of Gluss and Bardister, Northmavine. In 1792 Mr. Leask, a shipmaster from Cunningsburgh, was appointed to survey the scattald. Before the end of the century he had also surveyed Tronafirth scattald in Tingwall as well as the improvable sections of the scattald of Collafirth and Swining in Delting. The local Sheriff Court handled many of these cases, or alternatively they were dealt with outside the court. During the first decade of the nineteenth century a lesser heritor from Yell, Hosea Hoseason, made plans of many Yell townships using only a six foot rule and the rudiments of geometry (Wills, 1975, 353 -- makes brief reference to Shetland surveyors). A man of conviction and not merely content to offer his services as a surveyor, Hosea Hoseason expressed concern about the unfair treatment that he felt small landowners received when scattald lands were enclosed informally. He observed that in many cases this haphazard division favoured the large landowners. As these examples of early Shetland land measurers illustrate, the land surveying profession was established on the

islands as a direct result of local initiative in contrast to the Scottish situation.

Shetland surveyors successfully dealt with the early divisions, but by mid-nineteenth century the situation had changed. Between 1860 and 1880, the increasing demand for the division of scattalds created a shortage of local surveyors. Simultaneously, declining opportunities for surveyors in Scotland freed the Scottish surveyors either to pursue other cartographic interests or to apply their surveying skills elsewhere, in places such as Shetland.

For the one hundred years from 1740 to 1840 the surveying profession on mainland Scotland flourished.¹ During the early years (1700-1728) there were few individual surveyors. However, as the demand for their services increased so did the number of surveyors. The years from 1730 to 1770 represented a period of agrarian change in which a network of surveyors and landowners exchanged ideas and developed a new landscape and the number of surveyors and valuers were indicative of this change. Initially, surveyors were involved in the mechanics of the division and enclosure movement; later some were hired to act as estate managers whose role was to establish an estate policy of landscaping and planning, settle boundary disputes, plan new settlements and supervise road construction (Adams, 1975a, 15; Munro-unpublished Ph.D. in progress). This contrasted with the Shetland situation where most surveyors spent the main part of their career dealing either with Court of Session or Sheriff Court divisions and few became involved in estate management and planning. However, by the 1840s the majority of the agricultural improvements in Scotland

¹Four articles and a forthcoming book by I.H. Adams (1968, 1971c, 1975a, 1975b, 1980), along with Millman's The Making of the Scottish Landscape (1975) Ch. 5, give comparative detailed accounts of the surveyors' role in Scotland's economic development.

were completed and many surveyors found themselves unemployed. Some were able to adapt to the situation by developing an interest in other spheres of activity such as the field of transportation while others branched out into civil engineering. A few were fortunate enough to be hired by the Ordnance Survey which began to give national coverage (at the six-inch scale) in 1840, although it did not reach Shetland until almost forty years later (see p.211 below). By mid-century a "planning blight", so-called by Adams, had hit the Scottish surveying profession (Adams, 1975a, 15). The activities of the Ordnance Survey had reduced the demand for surveyors' work in Scotland and therefore it was to the periphery that they had to migrate, to areas such as Shetland where land surveying by the Ordnance Survey had yet to be done. Declining opportunities on the mainland conveniently coincided with Shetland's peak years of division and a few of the remaining Scottish surveyors eagerly sought the surveying jobs that resulted.

As the division movement gained momentum in Shetland, Scots and Orcadians, like Robert Coyne and William Crawford of Edinburgh and Malcolm Heddle and J.D. Miller of Kirkwall, welcomed the chance to travel north to survey for the Court of Session. Although the Scots did their surveys for the Court of Session primarily during the peak division years from 1860 to 1880 it is worth noting that it was a Scottish surveyor, William Crawford, who completed the first Court of Session scattald division in Shetland in 1826 (Fitful Head, Dunrossness - see p.160 above). Previously, all land undergoing division was surveyed by local measurers and registered in the Sheriff Court. However, eleven years after the division of Fitful Head, the Court of Session began appointing Shetlanders as surveyors (Ogilvy v Robertson - CS46 87/8/1848-A.D. Mathewson appointed

surveyor in Reafirth scattald division). Throughout the rest of the division period five of the Shetland surveyors demonstrated their diversity and skill by handling both Sheriff Court and Court of Session scattald divisions, while the Scottish surveyors worked solely for the Court of Session. As the 1880s ended twenty-three surveyors (fifteen Shetlands and eight Scots) had surveyed more than one third of the total area of the Shetland Islands. In particular, James Hepburn, a land surveyor in Lerwick, had surveyed the largest amount of scattald land: 31,295 acres or almost one third of the total scattald land divided (CS, SC processes). Shetland surveyors worked consistently throughout the period in both courts and played a dominant role in altering their landscape.

Surveyors were decision-makers. Although the valuator assigned a monetary value to the land, it was the surveyor's responsibility to divide the land fairly among the heritors. If the Sheriff Court employed a surveyor, he often shared this power jointly with the arbiter, but if the case was pending in the Court of Session the surveyor alone was responsible for dividing the land equitably. Thus neutrality on the part of the surveyor was essential. As early as 1818 John Mouat mentioned this in a letter to Hosea Hoseason:

"The division of commons is justly considered very difficult, requiring great judgement, integrity, experience and skill in the most honourable and neutral persons entrusted therewith, because of the variety of objects embraced..." (NRA (Scot) 0450 J. Mouat to H. Hoseason 25 Jan. 1818).

These comments were expressed in a letter concerning the division of Sandwick scattald, Yell in 1818. Although most landowners would have agreed with John Mouat, there were those who did not. In response to Mr. Mouat's letter Hosea Hoseason expressed his disagreement regarding a division by a neutral party (NRA (Scot) 0450 J. Mouat to

H. Hoseason 1 Feb. 1819). In order to avoid disputes surveyors were never chosen from the scattald area under division. This situation arose during the division of Reafirth scattald in Yell in 1833. The commissioner appointed Andrew D. Mathewson as surveyor but the scattald owners raised objections. These included the fact that he was a parochial teacher and could not devote his time fully to surveying, that he lacked qualifications and experience in surveying, and finally, that as one of the defenders he had a vested interest in the scattald. The final objection resulted in the appointment of a different surveyor (Ogilvy v Robertson - CS46 87/8/1848).

A surveyor's job was threefold: to perambulate the marches of the scattald "...and to take information from the oldest and most respected men in the neighbourhood..." (SC12/6/045 (3273)); to draw plans of the area ascertaining the relative values of the different sections and laying off roads and paths; and finally, to apportion the common among the owners both on paper and on the ground. The perambulation process often took several days to accomplish. The surveyor, accompanied by the agents for the heritors as well as several knowledgeable locals, walked the scattald marches to clarify any boundary disputes. A simple location map was often drawn at this point to record the scattald outline. Later, the surveyor along with two chainmen who were often the valuers, surveyed the area and a plain, simple plan resulted from their calculations. Subsequently, a valuation of the sections was superimposed on the map; this was the primary concern of the valuers (see Fig. 24a above). Both the valuers and surveyor then submitted their reports of valuation and surveying respectively to the commission for the division. The following is one such "Report of Survey and Measurement...by Thomas Irvine Surveyor", for the scattald of North and South Hammersland,

Easthouse, Vatster and Wadbister.

"South Hammersland May 25th 1858

On the 5th day of the present month, being as early in the season as the inclemency of the weather permitted, I proceeded to the above named scattald and in terms of the Commissioners Interlocutor dated the Thirteenth day of January last Surveyed and measured in separate portions or sections according to quality the whole grounds thereof bounded as declared in the said Interlocutor and found the Areas of the whole Sections together to amount to Eight Hundred and Eighty three Acres, Two Roods, and Seventeen Poles or Perches, Imperial measure exclusive of Roads and Paths for public or local accommodation and the water called the Black Loch...

The central portion of the scattald being surrounded by the Towns or Rooms having right in it that portion is more cut up for Peats, Feal Divot or Truck than the others. There exists however sufficient Peat-moss in each quarter of the Scattald to give each proprietor a due proportion of that important article.

A Map of the entire Scattald has been constructed by me and is herewith produced shewing the several parcels or sections thereof with its marches and boundary lines -- the relative position of each Town having right in it -- Lochs -- Burns -- Mills -- Enclosures and the several Roads and Paths running through it..." (Hay v Mouat - CS46 116/3/1854).

The method of land measurement and mapping can be deduced from contemporary survey sketches made during the period and from notes contained in the Thomas Irvine and Andrew D. Mathewson records. It would appear that only the instrument for linear measurement was used, namely the chain.¹ Both local and mainland Scottish surveyors pro-

¹ Surveying, by A. Bannister and S. Raymond, 4th ed., London, 1977 contains a section titled 'Chain Surveying' which gives concise coverage of the technique. In addition, A.W. Richeson's book English Land Measuring to 1800: Instruments and Practises, London, 1966 gives an historical perspective on the subject, while George Adams' book, Geometrical and Graphical Essays, (1797), 4th ed., London, 1813, gives a contemporary view.

duced plans of Shetland by the method of chaining (Fig. 25). The measurers of the late eighteenth century, lacking the knowledge and expertise necessary to use the newer methods, drew plans using the chain surveying technique because the method was simple and required little equipment. By the mid-nineteenth century the surveying profession was being heavily taxed by the demands of the division movement as it reached its peak. As the demand for their skills increased chain surveying continued to be used instead of instrument surveying. In addition to its simplicity chain surveys were inexpensive compared to the high-precision surveys. This was essential in Shetland where an entire scattald was often worth as little as £ 18 (Houlland scattald, Tingwall was valued at £ 18 during the division of its 330 acres - SC12/53/13, p. 159). Landowners were reluctant to pay the expense of so accurate a survey of their lands when in such cases it was not absolutely necessary.

Data obtained from field sketches and measurements were then plotted on paper or occasionally on linen. While scales varied, the map was usually measured in chains, although some sketches lacked any scale whatsoever. The surveyors mapped the existing land use pattern using a very simple classification. Sometimes they only differentiated between the town and scattald; other times the arable, grass, moss, and pasture completed the assessment. Although these plans were reasonably accurate they were a far cry from the artistic and cartographic masterpieces created one hundred years earlier by their Scottish counterparts.¹

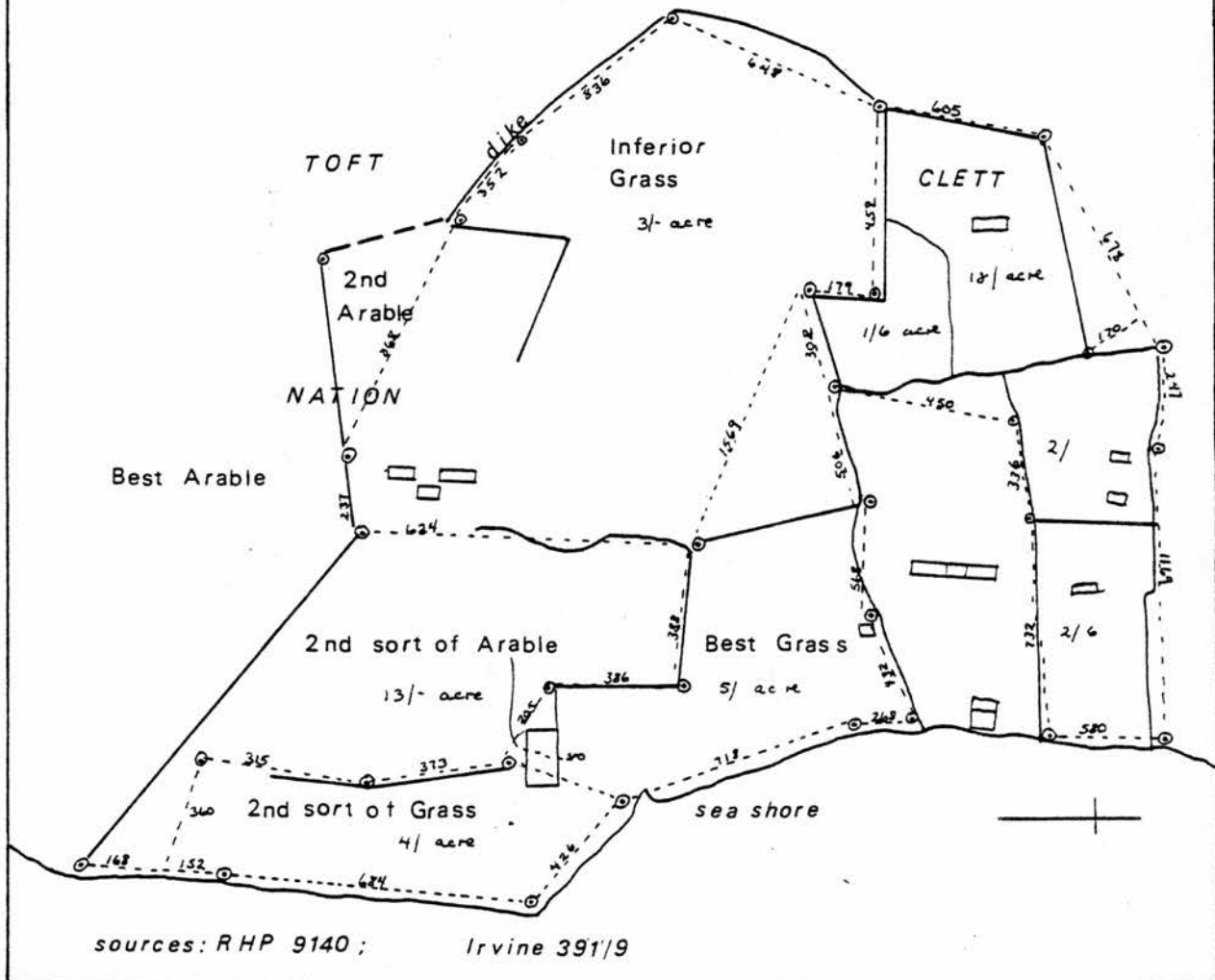
Once the surveyor completed a plan of the scattald his subse-

¹Munro talks of "...the many detailed and attractive plans of Strathspey...involving a good deal of artistic skill as well as cartographic precision..." that were produced by such eminent surveyors of the time as Peter May, the Taylor brothers, and George Brown (Munro-unpublished Ph.D. in progress, Ch.2).

FIG. 25

CHAIN SURVEY, by THOMAS IRVINE

THE SCATTALD of TOFT, NATION, & BROUGH



quent task was to apportion the common among the individual proprietors (Fig. 24b). Several aspects had to be considered. The surveyor was responsible not only for providing each heritor with varying qualities of land but also for setting off his various allotments as close to his existing holdings as possible. In a "Report of the Scheme of Division of the Scattald of North and South Hammersland, Easthouse, Vatster and Wadbaster" Thomas Irvine emphasized these requisites.

"The Scheme of division of the above named Scattald now submitted has been framed as far as practicable in strict conformity with the Commissioners Interlocutor of the 13th January last in setting off each heritors share... and convenient to his property lands. The Towns -- as Wadbaster Vatster and North Hammersland that adjoin or are nearly surrounded by the Scattald have each got its respective share around itself and those Towns not in contiguity with the Scattald as South Hammersland and Easthouse have got each a share of what lay nearest to them.

In scheming the heritors respective shares I have carefully acted on the principle that the party to whom naturally fell a section or more of the best quality or highest value should as far as practicable have of the lowest value also; and throughout so to assign the sections as to make each share in point of quality a fair average of the subject of division with a due proportion of the Peat Moss in each. Each heritors share is connected with a Road. I have continued the South Hammersland and Easthouse north road to the Peat Air as indispensable for the conveyance of Peats and seaweed. I have also set off a Path for the people of Vatster to their fishing Boat which likewise serves the Wadbaster people to their Mill at Vatster" (Hay v Mouat - CS46 116/3/1854 Report of Scheme of Division...1853).

However, everyone was not always satisfied and as a result complaints like those noted on page 115 frequently followed.

Initially, the allocation of the sections of land only existed on paper. However, in the case of a runrig division the physical

enclosure of individual farms usually followed shortly thereafter.

John Bruce of Sumburgh, an avid improver whose income depended on the fishing as well as the agricultural activities of his tenants, was eager to improve the agricultural state of his lands. In a letter to the surveyor Thomas Irvine he wrote,

"...you do not provide for the number of tenants at present on this ground... my object is to have each farm enclosed by itself with a ring fence and these long strips would not do to enclose...I sent you a rough sketch to show how I would propose to make the division...I quite agree with you that 5 acres is too little for a farm but we have too many tenants and it would be hard to put any of them away..." (D8/394 book 5 p. 856-7 Bruce to T. Irvine 1872).

Although Bruce proposed improving these tenant farms by enclosure he was not willing to sacrifice tenant-fishermen to the increased size and perhaps agricultural potential of the farms. As a result the merchant-laird status occasionally created conflicting interest for the landowner involved. Some of the tenants of the Sumburgh estate received leases binding them to enclose their own farms within an allotted time but to ease their task and increase the efficiency of their farms the surveyor was instructed to lay out the farms in one square (D8/394 book 6, Bruce to A.D. Mathewson April 1872).

Following a division of scattald it was the surveyor's responsibility to mark off the scattald boundaries and the proprietors' allotments on the ground (see Ch. 13). In Shetland this process was generally one of demarcation rather than enclosure. The shares were marked in different ways depending on the materials available. If stones were abundant then cairns were fixed at certain points to identify both the scattald and allotment boundaries. In lieu of this holes or short, shallow trenches were dug. The final report

in the division of the Fetlar scattalds provides an example of the procedure. The surveyor proceeded to the grounds and marked off the scattald allotments,

"...by march stones and by cuttings at the corners and at such intervals on the lines as he thought necessary to define them properly -- said cuttings being on average of ten to twenty feet in length, eight to ten inches in breadth and six to eight inches in depth and at such distances apart as to allow the one cutting to be seen from the other" (Zetland v Nicolson CS 249/7964B Final Report 1881, Fetlar).

In the parish of Sandsting where the surface consists of peat and heather with few rocks, deep ditches were dug to mark not only the scattald boundaries but also individual proprietors' allotments within the scattald. Later ditches were used as estate boundaries. Once estates had been consolidated, conterminous landowners would often have their mutual boundary surveyed and fenced. In 1875 the owners of the Sumburgh and Symbister estates in Dunrossness reached an agreement to have a fence constructed which would separate their properties (D8/333).

The process of surveying could be quite lucrative for the surveyors, many of whom were in constant demand during the decades of the nineteenth century and developed considerable skill. In 1841 Andrew D. Mathewson accepted the job of surveyor for the division of Baliasta scattald, Unst, and he gave his terms,

"...I hereby offer to undertake the business of the survey and division at the rate of half a guinea per day for the time actually employed by me besides my travelling and other actual expenses; it being understood that my charges for professional trouble shall not exceed in whole including map and Report of Division the sum of Fifty pounds sterling" (ADM - A.D. Mathewson to A. Duncan 1841).

To be able to command such wages, a surveyor had to be competent.

Roderique Coyne, land surveyor and civil engineer, received £847 for his work dividing four scattalds in the parish of Delting. The process took four years to complete and during the course of the division he produced a total of nineteen maps. Other surveyors found it difficult to make ends meet; later in his career Mr. Mathewson was one such surveyor. In 1873 he wrote to Bruce of Sumburgh requesting a loan of £30 but he was refused. Instead Mr. Bruce offered him "...work through the summer as I want the large township of Hoswick and Sandwick parish surveyed and the marches put right with a number of small proprietors...". Later he added, "I might get you a scattald to divide also" (D8/394 book 6 p. 828 Bruce to A.D. Mathewson May 1873). By the 1860s much of the survey work was directed towards scattald divisions. Since the bulk of these were processed by the Court of Session, which on the whole employed (mainland) Scots, some local surveyors had difficulty finding work (CS processes).

The surveyor's role in remaking the landscape brought him into close contact with his employers, the landowners. Occasionally the landowners praised their surveyor, for example, of Andrew Mathewson Andrew Grierson wrote, "I know no one in Shetland as capable of doing the job so well as yourself from your long experience" (ADM - A. Grierson to A.D. Mathewson 1867). More commonly, however, surveyors were criticized. Andrew Duncan, the arbiter in a runrig division, wrote to Andrew Mathewson, the surveyor, complaining about the map which he had produced because Mathewson had taken it upon himself to straighten the division line between two allotments when he lacked the authority to do so (ADM - A. Duncan to A.D. Mathewson 1833). Alternatively, surveyors were given the authority to make crucial decisions concerning the value of the land and its potential for improvement. Bruce of Sumburgh requested his grounds officer, Adam

Jarmson, to scrutinize the township of Voxter and then provide him with an opinion as to whether the land could be reorganized and divided (D8/394 book 6 p. 643 Bruce to Jarmson 1873). Earlier, Bruce had become frustrated with the tardiness of the land surveyor, Mr. Mathewson. Over the years Bruce had employed Mathewson to divide several towns in addition to the scattald of Scatness, and although he had surveyed the areas to the landowner's satisfaction, Bruce had great difficulty in getting Mathewson to send him the maps after completing the survey. Time and again Bruce wrote letters demanding the return of the maps.

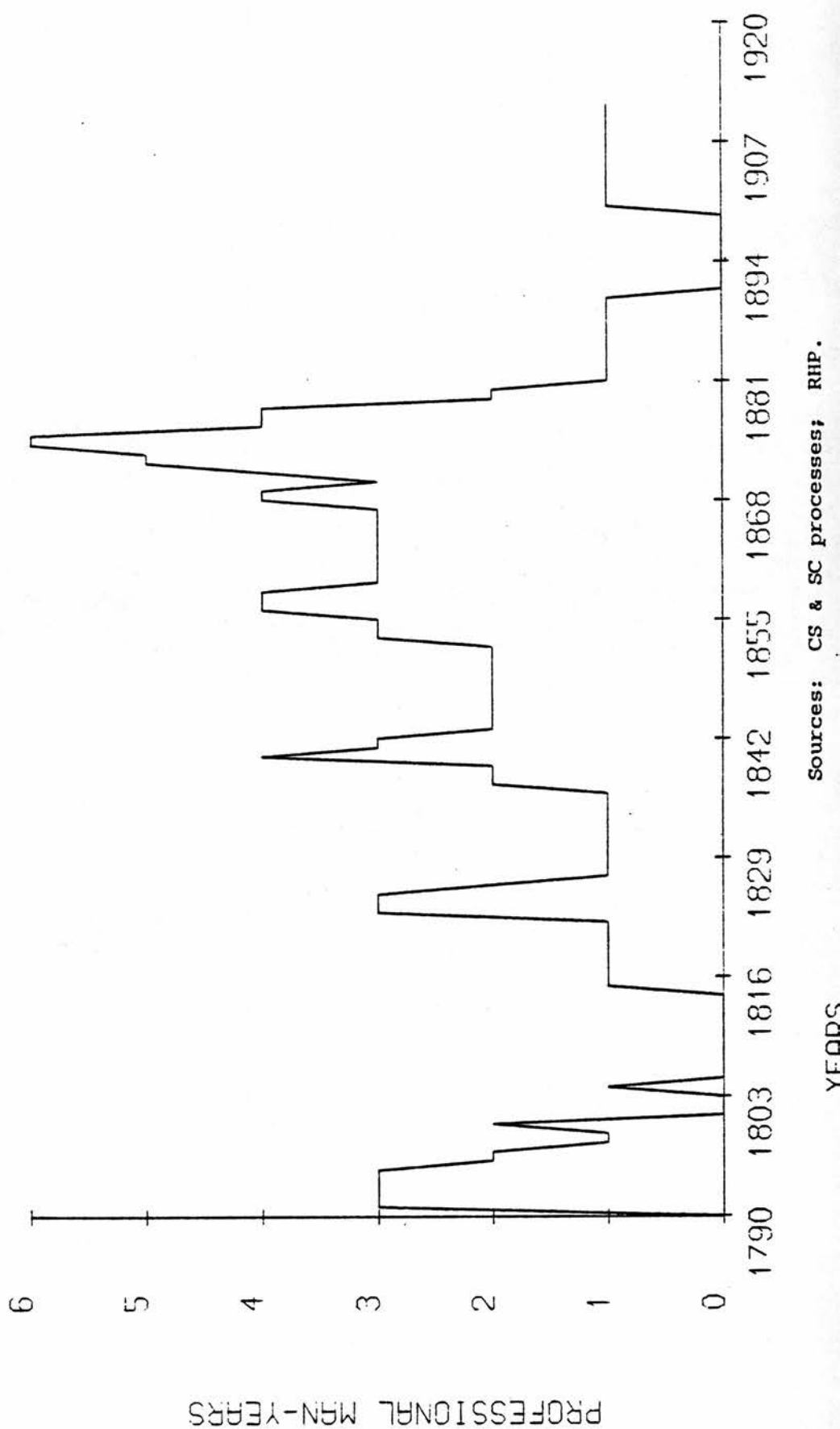
"It is little use me sending you the maps as in times past they have always come back from Yell in the same state in which they went away. Last year I had to write about a dozen times on the subject without getting any satisfactory reply" (D8/394 book 4 p. 235 Bruce to A.D. Mathewson 1869).

Finally, in 1872 Bruce wrote to Thomas Irvine offering him some runrig survey jobs. In addition, he asked that Thomas 'finish off Scatness Division'. Obviously, Bruce's patience had worn thin and Mathewson was out of a job. (D8/394 book 5 p. 817 Bruce to T. Irvine 1872).

The land surveying profession developed in the nineteenth century as a direct consequence of runrig consolidation, farm reorganization, scattald divisions and enclosures (Fig. 26). In order to graph the proliferation of the land surveying profession in Shetland, it was considered easiest to measure the capacity to provide scattald land surveying service rather than to attempt to measure the actual number of plans produced, as many have been lost. Thus, each surveyor's professional life span as a scattald surveyor was plotted by taking the date of the first reference to him as a scattald surveyor and that of the last known plan. (Adams (1975a) used this technique for esta-

FIGURE 26 .

THE GROWTH AND PROGRESS OF THE SCATTALD LAND SURVEYOR, 1790 - 1911



blishing a measure of the development of the profession in Scotland.) As a result the graph gives a rough estimate of the total number of surveyors working in each year on scattald divisions, including those starting their career and those continuing from the previous year. A comprehensive graph would require the additional knowledge of runrig and estate surveys which were also carried out by these men and this information would doubtlessly fill in the gaps in their careers between one scattald division and the next. Nevertheless, the graph as it stands roughly illustrates the development of the profession in Shetland and is useful for that reason. From it, the general changes are evident: the burst of partial or complete scattald divisions accomplished by the local measurers during the late eighteenth century; the sporadic divisions during the early nineteenth century responding to local initiative and agricultural change; the peak division years of 1860 to 1880 when the majority of Shetland was surveyed and valued in one form or another; finally, the end of the division movement. In a general way and of course on a smaller scale this graph illustrates the parallel development of the Shetland surveyor with that of their Scottish complement one hundred years earlier (a comparison of Fig. 26 and Adams, 1975a, 14 Fig. 2 illustrates this). By the 1890s more than 40 percent of the Shetland landscape had been surveyed and mapped by these men. Nevertheless, it was not until the Ordnance Survey began mapping the area in the late 1870s that a complete mapping of the county was finished.¹

Having examined the nature and development of land surveying and valuing in Shetland as well as the methods employed by surveyors and

¹The original date of survey of the OS maps for Shetland was 1877-78. Maps were produced at a six-inch to one-mile scale. The actual map sheets were published in 1880-81.

valuators specific conclusions can be arrived at:

1. In order to establish private property in Shetland, divisions were required involving an authoritative survey and assessment of the land. This required the hiring of the land surveyor and valuator.
2. During the major years of division in Shetland the professions of valuator and surveyor were considered separate while in Scotland this was not generally the case and surveyors were responsible for both land measurement and land valuation.
3. Instrumental in the division process, the land surveyor measured, assessed, and mapped the land in addition to coordinating the efforts of the valutors. To do so the simple chain method of surveying was employed to produce a basic, inexpensive map. Initially, the surveyors were local men from a variety of backgrounds but as demand for their skills increased mainland Scottish surveyors travelled north to work for the Court of Session.
4. The valutors were mostly indigenous crofters or farmers. By establishing the first monetary value of the land they created an analysis of the nature of contemporary agriculture in Shetland and in doing so they advised the landowners of future land use.
5. Both professions were highly regarded by the local community although the surveyors were better paid because their job required a greater degree of responsibility and skill.
6. The professions owe their origins to the division process. While the employment of the surveyors and valutors reflects the periods when the greatest number of scattalds were divided it also corresponds with the phases exhibiting agricultural change.
7. Finally, the map coverage indicates that these men who were employed by the courts were responsible for divisions of runrig and scattald and

occasionally for straightening estate marches and establishing field layouts. The surveyors and valuers of Shetland were involved primarily in legal disputes and unlike Scotland few served purely as estate agents or planners.

These men both facilitated change by providing the landowners with the information necessary for divisions and promoted change by the production of a more rational, scientific evaluation of the land. The surveyors and valuers along with the arbiters, commissioners and landowners comprised a group of persons responsible for the modernization of the Shetland landscape and with maps they practised planning in the modern sense of the word. "The quantitative view introduced by the land surveyor destroyed almost everyone's relationship to the environment by substituting measurements and plans for the old wisdom of boundaries. Disputes were henceforth settled by reference to a map rather than by appealing to custom and the memories of old men" (Stilgoe 1976).

Thomas Irvine -- A Case Study of a Shetland Surveyor

"We do not suppose there is any person living who has had more experience of land in Shetland, or who can speak with more authority of the subject, than yourself" (TI 387/72 W. Sievwright to T. Irvine, 1869).

In 1869 this high praise was delivered to Thomas Irvine in a letter by one of the leading Shetland solicitors, William Sievwright, who was himself actively involved in the land reorganization movement. A prominent citizen of nineteenth century Shetland, Thomas Irvine of Midbrake (Yell), a small landowner, provided the islands with his skills as an improver, innovator and surveyor for almost sixty years.

Thomas was born in the late eighteenth century. His father, a merchant laird by the name of James Irvine, possessed a small estate

in Yell and also cured fish (cod and ling) for the Spanish market. Because there was no parish school in Yell at the time, Thomas attended the school run by Reverend John Turnbull in the parish of Tingwall. Turnbull was not only an excellent preacher according to contemporary accounts but he was also an innovative farmer. It was from this learned man that Thomas not only acquired the mathematical skills necessary for carrying out rudimentary surveys, but also the knowledge of agricultural improvements in general and new methods and new crops (such as turnip, wheat and flax) in particular (TI 394/2 Land Surveying Book, p. 96; Nelson, 1965, 44-45).

Some of this knowledge he later put into practice on his own estate. By the 1820s Irvine, the progressive landowner, was issuing leases to his tenants, almost seventy years before it was to become a common practice in Shetland. His leases required of his tenants the upkeep of both dykes and drains and the payment of rent in money as opposed to the traditional method of payment in goods (TI 388/83 Lease to D. Smith by T. Irvine 1822). The stipulations were unique for few estates possessed dyked or drained fields in those days.

In 1815 Thomas the improver ordered 3500 plants from Scotland in an attempt to establish a wood in Shetland. Mountain ash, Scotch elm and fir, spruce and silver fir, Swedish or Norwegian maple, sycamore and Carolina poplars were a few of the exotic varieties that were transported to Shetland for planting at Midbrake. These trees were planted on half an acre of ground with the hardy plants on the outside and enclosed by a ditch and dyke to keep the animals out. To compensate for Shetland's strong prevailing winds the trees were planted angling into the wind. Open trenches carried off the surface water, shell sand was put on the ground as fertilizer and dung, old straw or heath was put around the roots of the plants just before

the frost (TI 387/39-41). By 1816 Thomas recorded great difficulty in protecting his forest from the locals who would often try to steal his trees. A second attempt at creating a 'garden' was made in 1820 when an Edinburgh man sent him a variety of plants from his nursery including currant and raspberry bushes, firs, larches, ivy, alder willows, holly and strawberry plants. Cabbages, turnips, radishes, lettuce, carrots, parsley, kidney beans, mustard and cauliflower plants were also sent to establish Irvine's vegetable garden -- one of the earliest in Shetland. To accommodate all of these new plants additional ground was added to the garden increasing its size by one third and a new garden wall was built (TI 391/1, 6).

Thomas not only practised agricultural improvement at home but he also tried to promote aspects of it among his neighbours. During the brief flowering of the Shetland Society in the 1820s premiums were offered by the society for the encouragement of improvements in agriculture and stock rearing. Irvine served the northern islands as an agricultural consultant and landowners or tenants interested in attempting to cultivate the new crop turnips could seek directions for cultivation from him (TI 388/129). In addition to being an improver Thomas was also an innovator and in 1873 (when he was over 75 years old) he wrote to the Northern Ensign expressing his ideas concerning the acquisition of a machine to compress peat so that it could be used as a substitute for coal (TI 387/81). Far ahead of its time, the invention had to wait until the twentieth century.¹

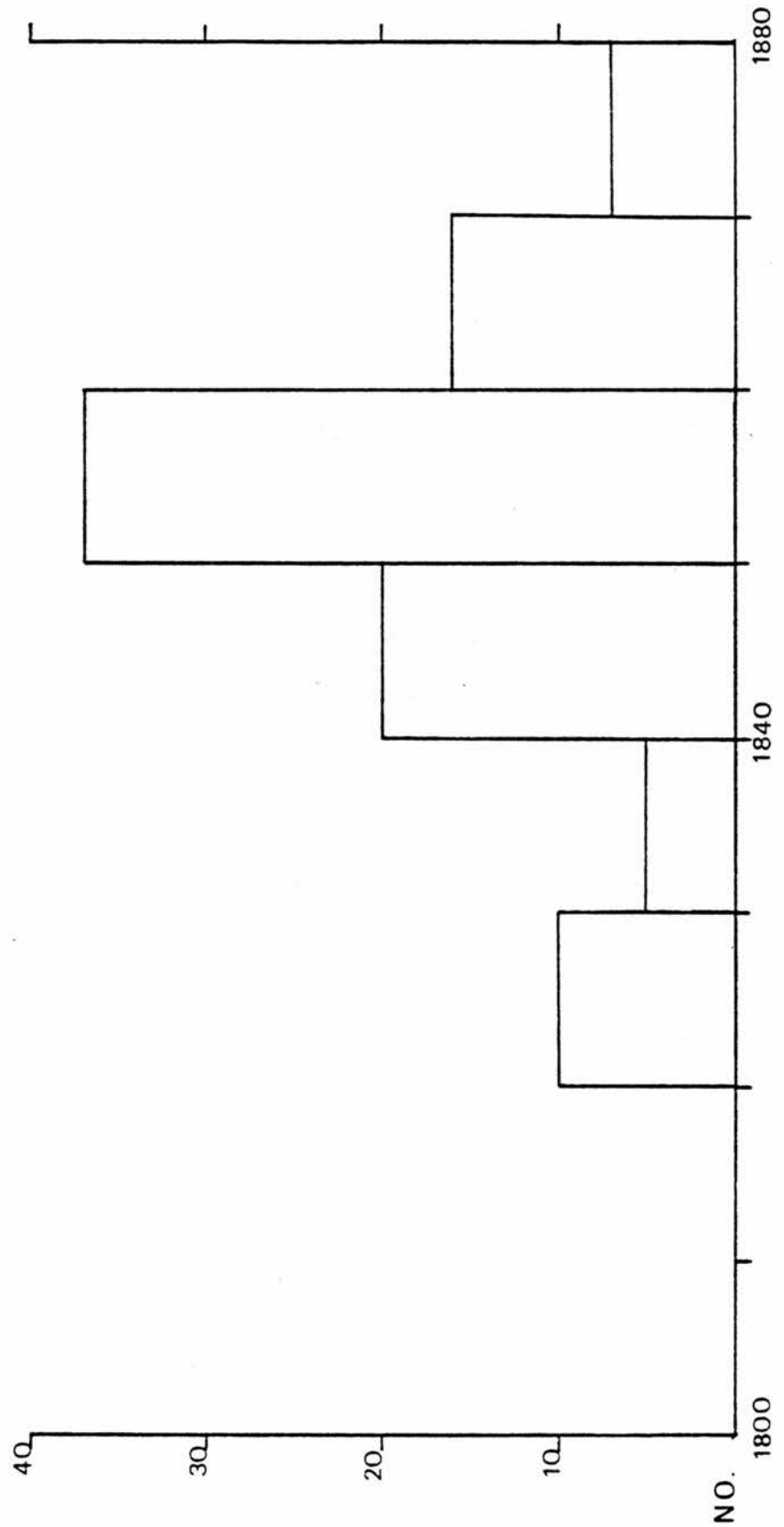
With such an impressive background of personal experience which

¹ During the 1940s the suggestion again came up, this time with respect to the North of Scotland and the Higginbottom-Lennox Drier, a machine to cut and dry the peat, was proposed. Douglas M. Reid, The Problem of the Highlands. Eneas MacKay, Stirling 1943, pp. 36-9.

displayed both technical skill and ingenuity Thomas was highly qualified to be a surveyor. This background was necessary because of the important role played by the surveyor in nineteenth century Shetland. His tasks were threefold: he recorded existing reality, he served the society as an agricultural consultant, and finally, he anticipated the future. During his lifetime Thomas conducted over ninety surveys and produced numerous plans of various parts of Shetland, the bulk of which involved the reorganization and division of the town lands into individual farms (runrig division). Occasionally he was asked to do a private survey for an estate (TI 394/13 M.C. Irvine to T. Irvine 1859). Six scattalds were surveyed and divided by him -- four through the Court of Session and two through the local Sheriff Court. Thomas was one of the five local surveyors who conducted scattald divisions through both courts. His first recorded survey was conducted of the Garths of Brough, North Yell in 1822 and his last was of Scatness which he completed in 1879 (Fig. 27). He was one of the five surveyors who managed to find the time to act as a valuator. Between 1837 and 1875 Thomas illustrated his versatility by serving as valuator in three scattald divisions in addition to surveying numerous areas and handling the affairs of his estate.

As the division movement gained momentum in the 1850s men like Irvine served in the capacity of surveyor/valuator on almost a full-time basis. This notion is substantiated by Irvine's own Farming Day Book, 1832-1880 (TI 392/106). Until 1849 Thomas kept detailed notes of his farming activities but during the harvest of that year he was absent and as a result an entry does not appear in the book. Over the subsequent years frequent absences from home during the voar and hairst seasons prevented him from entering detailed accounts in his

FIG. 27 THE NUMBER OF SURVEYS PRODUCED
BY
THOMAS IRVINE



sources: CS, SC, TI papers

farming book. Because divisions of either runrig or scattald land involved a complete reorganization of the land proprietorship, it was generally accomplished during the late autumn or early spring so as not to disrupt the agricultural cycle. Because of the volume of work to be done the surveyors would begin work as soon as possible which often meant that they were away from their own farms during much of the crucial season. Surveyors such as Irvine whose skills were in constant demand spent much of the spring and autumn of each year travelling throughout the islands by foot, horse and boat. Keeping in mind that inter-and intra-island travel was both time consuming and uncertain during the nineteenth century it is truly remarkable that he managed to accomplish the number of surveys that he did throughout the islands (Fig. 28).

Thomas had definite notions when it came to the method of valuing and the equitable division of the land among its owners. These were carefully and clearly outlined in his estate records. He stated that the object of a division was,

"... to preserve houses as far as practicable --
-- give a fair proportion of Infield of high
quality land -- and a full share of arable
and grass, separately taken to the respective
proprietors" (TI 389/35/6/ 1844).

In other words each heritor involved in a land division was to receive in separate allotments according to their share a due proportion of each type of land (TI 394/26 Stapness, Walls; 394/27 Swinister, Walls). In a letter to William Sievwright in 1869 Thomas elaborated further by explaining the rationale that he used to value farm and outset lands.

"I cannot endure guesswork when value or calculation is concerned...it is a generally received rule among agriculturalists that the third of the returns of the farm should be equal to the rent...I have founded my opinion on that rule and from my experience

FIG. 28

THE SURVEYS OF THOMAS IRVINE,
1820 - 1879

• Towns

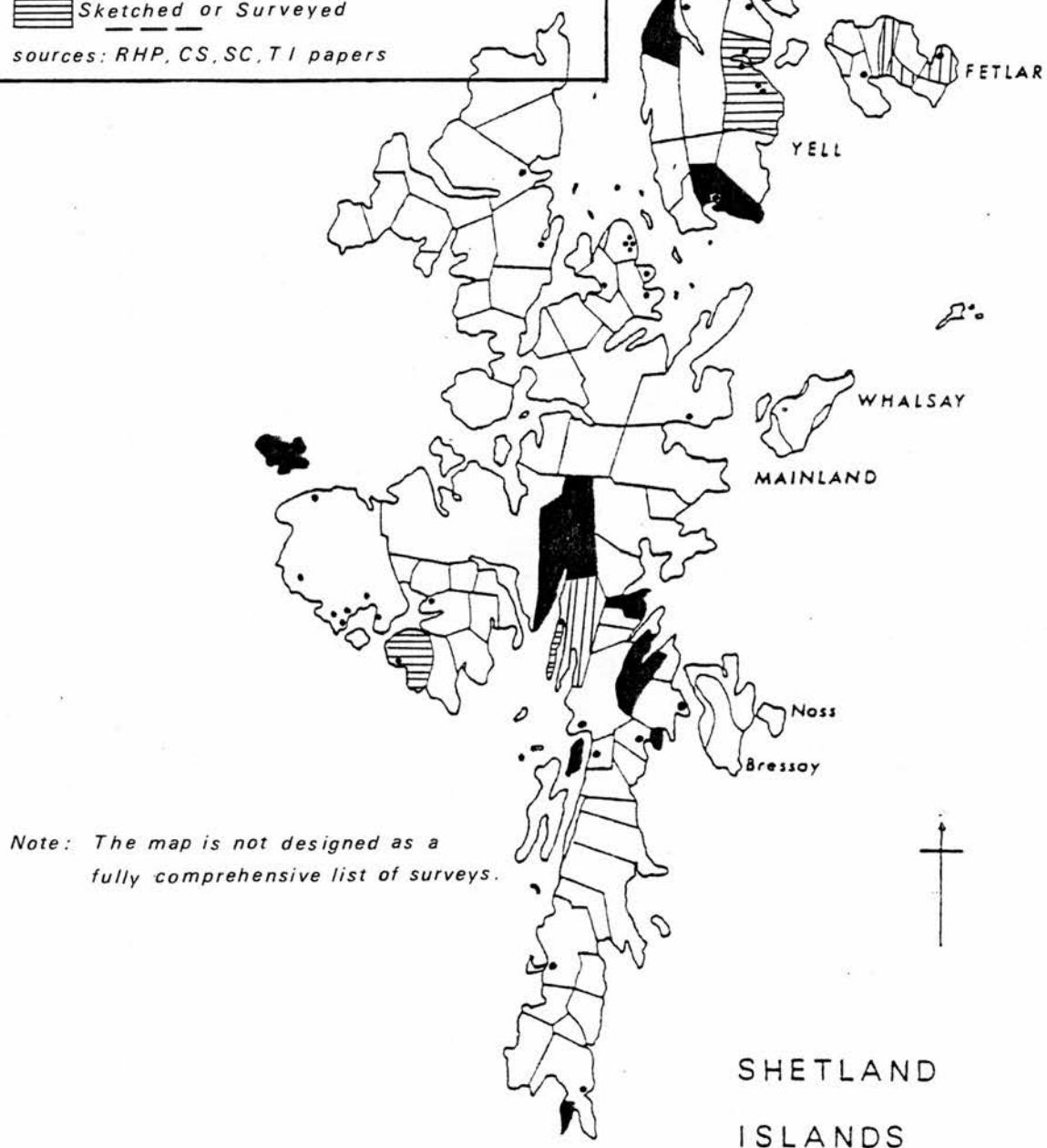
Scattalds:

■ Surveyed and Divided

▨ Valued

▨ Sketched or Surveyed

sources: RHP, CS, SC, T I papers



— Scattald Boundaries

0 10
miles

-- The best, well managed land will render 15 Thrave of oats to the acre which at 4/ thrave gives £3. The third of which is 20/ ...I have the outsets on the same principle. In the latter case I consider how many acres could graze a sheep throughout the year..." (TI 387/77).

Later in the same letter he criticized the valuator's inaccuracy. In his opinion the "...skathold valuator's work too much by guess..." and he felt that "...stranger commissioners are not the most competent" (TI 387/77). To be able to judge the land with exactness required an intimate knowledge of the landscape which Thomas felt could only be provided by a Shetlander.

The cost of divisions and major reorganizations of land proprietorship was always of primary concern to the landowners. In answer to a query concerning the cost of such a survey Thomas replied, "My usual practice in similar cases is to charge per acre and to that practise I of course will adhere" (TI 389/35/7/1 T. Irvine to R. Spence 1843). Irvine's "Statement of Income from Surveying" for 1853 to 1856 came to a net sum of £62. In 1859 he had a good financial year for he received the sum of £129 for acting as surveyor in the Trebister scattald division. The case had taken six years to complete in the Court of Session. In 1879 Thomas received the rather meagre sum of £47 for both the scattald and runrig division of Scatness which had taken a total of nine years to complete via the Sheriff Court. Obviously, surveying jobs for the Court of Session were the more sought-after ones because the pay was a good deal better than a similar job for the Sheriff Court.

Thomas Irvine was a self-educated surveyor when compared with Roderick Coyne, civil engineer and land surveyor of Edinburgh or William Crawford, land surveyor, whose father had been a prominent land surveyor before him. The plans and surveys produced by Irvine ranged

from mere descriptions of boundaries, to rough sketch maps, to reasonably good, detailed maps. However, if a comparison is made between his work and that of a professional surveyor such as Roderick Coyne the differences in style, calibre of work, and technical knowledge of the men are evident. Even so the expensive, high-precision work of the professionals was not absolutely necessary for the immediate needs of the landowners and therefore many were prepared to pay the fees for a plain, simple but functional map produced by men such as Irvine, rather than to pay the expense of so accurate a survey.

Irvine's work remained consistent throughout his career; he produced working maps of a rough but practical nature rather than masterpieces of cartographic skill. He applied the simple yet fast method of chain surveying rather than use the more highly developed angle-measuring instruments which had been refined a century before but which required both great technical skill and a thorough knowledge of geometry and trigonometry. As surveyor in a division, Thomas often would initially draft the outline and location of the area. Later, he utilized the chain to draw a simple map which although not always completely accurate,¹ visually portrayed the valuation, sections and scheme of division superimposed on the plan.² Occasionally additions such as a qualitative assessment of the soil moisture, or a description of the vegetation quality, or contour shading were included on the map.³

¹An example is found on RHP 9105 Scatness Division - "472 (links) from normal at N^o side of yard or better say 500..."

²Reference can be made to RHP 9119 (Hammersland, etc.), RHP 9135-6 (Midboe), RHP 9114 (Bardaster).

³Examples of such maps include RHP9105 (Scatness), RHP 9140 (Toft), RHP 9141 (Udhouse), RHP 9110 (Trebister).

As already mentioned the surveyor, in addition to his role as a recorder of the landscape was to provide the community with his skills as an agrarian consultant. As early as 1821 Thomas served the islands in the capacity of consultant for the tillage of new crops such as turnips. His experiments with a tree plantation and a vegetable garden would no doubt have sparked off some conversation among the landowners and perhaps the occasional one would dare to duplicate Irvine's efforts. Farmers wrote to him to ask advice on such things as divisions and the method of valuing the land in Shetland based on the merk (TI 387/73 J.W. Spence to T. Irvine 1869). Occasionally positions would be reversed and a knowledgeable landowner who desired the measurement, plan and division of part of his estate would write to Irvine providing him with a complete descriptive plan of the changes the landowner required. William Hay of Tingwall was such a landowner. In 1850 he wrote a comprehensive letter to Thomas instructing him as to the division of Trondra Isle.

"The object in view in Trondra is to measure the arable land lying unenclosed and unequal -- and to divide it into regular convenient allotments for the present tenants...[the] principle object in laying off the farms in Trondra is so to shape them... with a view to enforcing a regular rotation of cropping -- and thus to improve their husbandry to render them independent of Truck and to save the pasture which they are scalping and destroying within and without dykes..." (TI 394/30).

He suggested that Thomas have "...an eye to turning some of their small farms which are ordinary farms split into two -- again into one..." (TI 394/30) and thus reverse the process of farm subdivision which had occurred earlier (Ch. 1). Then Hay referred directly to the scattald: "The piece of Hill which is unimproveable or mossy

will remain open as before for the pasture of young cattle in summer and for peats" (TI 394/30). Although all the expense of division would be incurred this landowner realized that little could be gained by a complete division of the hill. Finally, Hay demanded an answer to the crucial question:

"...as too much expense must not be incurred in such attempts at improvement, I would require to know beforehand the outside of what the foregoing would cost..." (TI 394/30).

However, Hay was not content to leave his proposal at that point, for he then asked that Irvine use his own judgement to incorporate a plan for the future in his division.

"In going over the scattald or grass grounds of the island, it will be well to select such spots as are capable of improvement and to march them off as farms...so that without increasing the number of houses or population in the island, when some of the old homes are no longer inhabitable their occupants may move to these outsets if they incline -- rather than leave the island" (TI 394/30).

Thus the ultimate function of the surveyor was to influence and shape the future landscape. When dividing the township of Skelberry, Lunnasting into new farms in 1848 Thomas strongly suggested that, "A cattle road for lower Skelberry to reach a better pasture than the present one would be very necessary..." (TI 394/24).

Irvine was only one of the fifteen Shetland surveyors who was involved in recording the existing as well as the changing landscape of the nineteenth century and although atypical in his background as both a landowner and a surveyor and in his accomplishments as an improver and an innovator, he still reflected to a certain extent the characteristics of the Shetland surveyors as a whole. Like the other Shetland surveyors involved in divisions Thomas had acquired his

technical skills from his local schooling in combination with his intimate knowledge of the Shetland landscape. In addition he possessed the advantage of being of the landowning class himself and so not only was he familiar on a personal level with his clients -- the landowners -- but he also possessed inside knowledge of how a Shetland estate operated. Finally, Thomas Irvine, the landowner, improver, and innovator established his career as a land surveyor at the dawn of the agrarian improvement era in Shetland and he remained one of the most active Shetland surveyors throughout the division period. His remarkable career recorded in his estate papers coincided with and reflected the changing needs of Shetland agriculture.

PART III

POST-DIVISION LANDSCAPE

Introduction

By the mid-nineteenth century the effective introduction of improvements was beginning to exert an influence on the landscape. These improvements took many forms. Although the emphasis of this thesis has been on a study of the complex process of scattald division in isolation and the resulting institutional change in land proprietorship, divisions represented only one aspect of the overall changes that were taking place in Shetland's agriculture during the nineteenth century. Part III attempts to outline some of the main features of agricultural change occurring simultaneously with scattald divisions. These included shifts in both the livestock and crop balances which reflected the parallel development of commercial stock farms. Along with scattald divisions these major changes in the physical landscape took place as part of agricultural improvement.

In many cases divisions represented the first of a series of agricultural changes, initially ideological (as discussed in Part II) and later physical (Part III). However, the landscape changes which occurred during the second half of the nineteenth century are much too complex to link simply with scattald divisions. Nevertheless, physical manifestations on the land in the form of agricultural improvements and farm consolidation and reorganization often followed the legal clarification of proprietorship and the establishment of private property (although examples where legal division did not result in physical changes also exist). The final chapters of this thesis are primarily concerned with visible changes in the agrarian landscape and why they occurred.

In 1806 Sir Alexander Seton wrote in a letter "Containing Observations on the State of the Shetland Islands and on the Means of their Improvement" that no attempt at agricultural improvement had been

made since the departure of the Norwegians, while Tudor wrote, "Even as late as the commencement of the present century very little improvement seems to have been made in agricultural matters" (Tudor, 1883, 95). These were the opinions generally held by contemporary writers. However, with the new century came changes in the agrarian sector of the economy. Agricultural distress (1803-07, 1815, 1830s, 1840s, 1874-75); depression in the fisheries (1793, 1811, 1830s, 1840s, 1863, 1869, 1890s); and a desire for a clear ownership pattern impelled landowners to look for new ways of exploiting the land. Organizations such as the Iberian Patriotic Society (1808), the Shetland Society (1815), and the Shetland Agricultural Society (1864) were established to try to improve agricultural standards and to extend the fisheries. In 1818, for example, the Shetland Society offered a premium as a reward for sowing turnips as a field crop. However, the appeal of the contest was limited. Only Dunrossness competed because it was the only district with turnips to show, its largest plot being one quarter of an acre (Evershed, 1874, 204).

In a paper presented at the Conference on "Scottish Rural Settlement" held at Glasgow University in October 1979, Dr. Ian Whyte stated that small increases of population in areas operating at a low subsistence level could have great effects on patterns of settlement, for example, the infilling of poorer quality land. Large areas of marginal land might be cultivated as population pressure increased. This seemed to be occurring in Shetland during the early nineteenth century. Comments made in the Statistical Accounts (OSA; NSA) generally indicate that during the first half of the nineteenth century the amount of arable land increased in response to Shetland's increasing population (OSA, V, 12, 192; NSA, XV, 42, 53). From disputes recorded in the Sheriff Court it is evident that much of this new arable land

consisted of hill enclosures (Ch. 5). For example, in Unst increasing population pressure was paralleled by the gradual expansion of cultivation --- 1500 acres in 1791, 2000 acres in 1841 and 2200 acres in 1866 (Wheeler, 1964, 17). However, as population decreased after 1860 and pastoral farms were introduced the area under cultivation began to decrease. By 1870 Unst reported only 2105 acres under cultivation (AF39 23/1).

By mid-century much of the arable land was still cultivated to a large extent in the old way and few improvements in the crops or the method of cultivation were evident (NSA, XV, 14, 29, 89). The traditional crops of oats, bere and potatoes still covered most of the cultivated land while livestock consisted of native breeds of ponies, cows, sheep, hens and pigs (see Chs. 11, 12). Impediments to improvements noted by the authors of the Accounts were numerous and included: the lack of divisions, capital, leases, enclosures, roads, limestone and seaweed for fertilizer; poor drainage, housing, soil and climate; the smallness of farms and finally, the dual occupation of fisherman-farmer held by most Shetlanders (OSA; NSA). Because of these impediments it was logical "That agriculture, in any higher sense of the word, should, till comparatively recent years, have been an unknown quantity in Shetland..." (Tudor, 1883, 146). Nevertheless, by the time of writing Tudor commented that some areas of Shetland now compared favourably with the rest of Scotland although half of the land was still held by crofters who tilled the land much as they had at the beginning of the century (Tudor, 1883, 148).

Problems associated with marketing and land tenure provided the major stumbling blocks to establishing a new system of agriculture based on a market-oriented economy. However, as discussed in the

first chapter of this section the marketing of agricultural products became increasingly viable as transportation and communication links with the markets to the south improved. Similarly, the legal divisions of scattalds represented a preliminary step to ending the old agricultural order, regulating hill grazings and establishing new sheep farms. Once a division was completed and the proprietorship of the scattald was determined, a clear statement regarding the regulation of individual grazing rights was made and the establishment of farms could follow. Although divisions resulted in a new delineation of land proprietorship, the agricultural use of the new patterns of land in many cases changed little or resulted in slow improvements. As in Scotland, the effect of runrig and scattald division on the morphology of the islands varied according to area. In Dunrossness and in Tingwall, for example, sections of the landscape changed from one of farm clusters to individual, enclosed and self-contained farms complete with drained, fertilized fields under crop rotation; while in others, such as in Northmavine or in Walls the farm morphology and the agricultural system changed little in the nineteenth century because the land proved unsuitable for the expansion of agriculture while the economy of the area was still very strongly oriented to the sea and the fishing industry (Napier, 1884, 1377). Tenants grew what they could on their crofts to supplement their earnings from the haaf fishing.

By the latter decades of the nineteenth century most of the scattald divisions were complete and the land tenancy changes which resulted became reflected in the improvements such as enclosure, draining, fertilizing and rotation, the total agricultural output, and in the depopulation trend which resulted from evictions and emigration. Although this will be discussed in the following chapters,

a brief overview of the changes is useful at this time.

The nineteenth century saw the beginning of change in the stock balance. With the importation of outside breeds of cattle and sheep landowners shifted the emphasis in agriculture from subsistence to livestock production in response to the market's demand for their products. In the rest of Britain, "The 1860's have been aptly termed the Golden Age of Agriculture. The era 1837-74 was certainly one of great prosperity and development in agriculture but the latter year marked the beginning of the end of that prosperity" (Symon, 1959, 189). Between 1850 and 1874 a strong upward trend in meat prices encouraged a gradual increase in livestock numbers and this was complemented by an expansion of the acreage devoted to fodder crops. The agricultural records show a steep rise in the number of sheep during the latter half of the century as consolidated, reorganized farms and later crofts changed their emphasis to sheep at the expense of cattle (Coull, 1964, 139; Millman, 1975, 104). Simultaneously, there was a decrease in the cultivated area combined with an increase in pasture land generally attributed to the change from subsistence to stock-oriented agriculture. These changes are reflected in the agricultural statistics of the Department of Agriculture and Fisheries (AF 39 23/1-4).

Shetland comprises a total of 352,319 acres. In 1866, the first year of the Agricultural Census, Shetland possessed 17,463 of arable crop land; 32,429 acres of permanent or natural pasture (excluding the scattald); and 302,427 acres of hill scattald. By 1900, however, the balance between these had changed to 292,675 acres of scattald and 43,606 acres of pasture while the arable land had decreased in area by almost 1500 acres (AF39 23/1-4). The emphasis was changing from a subsistence economy where the arable land was used to cultivate

crops for human consumption, to a stock economy where the prime concern was the cultivation of fodder crops. This resulted in a decrease in the area of arable crop land and hill scattald in favour of pasture land. In addition, a shift in the balance between crops within the total area of cropped land from crops for human consumption to fodder crops once again reflected this change to stock farming.

With a changing system of agriculture, Shetland could no longer support the same population on the land as in the days of subsistence farming. In some parts where landowners established sheep farms great changes in population distribution resulted. Evictions occurred but more commonly crofting settlements were reorganized to accommodate the newly established farms. Emigration provided an outlet for evicted persons or persons in areas undergoing great changes. With the passing of the Crofters Holdings (Scotland) Act in 1886 the tenants' civil rights were established and henceforth the relationship between laird and tenant changed. As a result landowners could no longer evict tenants at will since they now possessed security of tenure. However, regardless of the advantages of the Act to the crofter, emigration from Shetland continued; by 1901 the Shetland population was down to 27,736 from a high of 31,579 forty years earlier (Census 1861, 1901).

CHAPTER 10

TRANSPORTATION AND COMMUNICATION

During the early nineteenth century Shetland's trade with Britain and the Mediterranean countries predominantly involved products from the sea while agricultural products were still not in sufficient demand to justify regular services. While the emphasis was on the sea in terms of the haaf fishing it was also focused there in terms of transportation. In 1840 Shetland was a region that relied almost totally on the sea not only for external communication but also for contact with the outlying islands in addition to circulation around the mainland. Prior to 1847 only two roads existed in Shetland and both of these led out of Lerwick; one to Scalloway and the other to Laxfirth. During the best of times these were just muddy tracks and so travel was slow and tedious as well as limited in extent.¹ Elsewhere, crossing the land involved a foot journey across the boggy, undulating topography. As a result most residents kept a boat instead of a carriage or cart, as the sea was their main means of conveyance. However, communications and travel by sea were uncertain involving considerable time and danger, particularly in winter. As will be seen later, differences in the frequency of summer and winter services resulted from this uncertainty.

¹This is illustrated by a Memorial (from Unst and Yell to the Edinburgh Section of the Central Board of Management of the Funds raised for the Relief of Destitution in the Highlands and Islands of Scotland) dated 1850 in which the enclosed pathways in Unst were described as follows:

"...so much podged and cut up with cattle, as to have become a mass of miry clay, and, in winter at least, almost impassable."

And later,

"Even unenclosed pathways in Unst are in most places so covered with stones, that carts, which are used by a few families, cannot be driven from place to place without injury; and riding, which is much practised in the island, is in consequence both difficult and dangerous. (Report of the Edinburgh Section...1850, 2nd Report, 123-4).

In many ways a new era had begun for Shetland with the improvement of both internal and external transportation, beginning with the introduction in 1838 of a regular weekly steamboat service to Shetland between April and October. This was followed by the construction of the "Meal Roads" between 1849 and 1851 (see below), and finally by a weekly year-round steamship service to Aberdeen in 1861. The late 1830s and 1840s in particular, however, represented a crucial period in the development of transportation and communications in Shetland.

During the depressed years of the mid 1840s many of the major roadworks in northern Scotland and Shetland were constructed. In the northwest Highlands the government partially financed the construction of the 'destitution roads' as part of a 'creation of employment' scheme (Gray, 1955, 186-7). In addition, drainage projects financed by the Drainage Act of 1840, the construction of jetties and piers to modernize the fishing industry on the west coast, and the construction of a spinning and carding mill at Portree were also financed by the government to try to provide employment in the area, (see Hunter, 1976, Ch. 4 for a detailed description of the 1840s famine in the Highlands and government intervention).

In Shetland at the same time a series of disasters beginning with the collapse of the Hay and Ogilvy company--the largest merchant house with a virtual monopoly on foreign and coastal trade -- resulted in famine and destitution, especially in Lerwick and Scalloway. Four consecutive years of poor crops and fishing followed from 1845 until 1849. These years coincided with the potato famine that particularly affected Scotland and Ireland. To help alleviate the effects of famine, the government, through the Board for the Relief of Highland Destitution, began a roadworks scheme in Shetland. Work-

men were paid the equivalent of three pence a day in meal, hence the term "Meal Roads" was coined to refer to the thoroughfares that resulted. Included among the Thomas Irvine of Midbrake papers is a "Statement of Money received and expended for relief in Shetland, 1849-1852" (TI 387/113). The project produced both food and employment for Shetlanders during these difficult years and in the end one hundred and seventeen miles of road had been constructed connecting the north, south and west parts of Shetland's mainland with Lerwick. In addition, one road in Yell which extended from Cullivoe in the north to Burravoe in the south was also laid at this time. A "Memorial for Andrew H. Grierson, Esq. of Quendale and John Brice, Esq. Jr. of Sumburgh", written twenty years later described the project in retrospect.

"The greater part of the roads now used in Shetland were first constructed between 1846 and 1852 though some few of them...are of ancient date [probably refers to the Lerwick-Scalloway and Lerwick-Laxfirth roads] and were adopted as the lines of road to be improved by the operations which were carried on between 1846 and 1852. The means by which the operations in the years referred to were carried on, were supplied from the funds collected for the relief of destitution in Highlands and Islands on the failure of the Potato Crop, assisted by contributions from proprietors in the district who co-operated more or less liberally..." (D8/365).

The results of the improved communications within Shetland by road was striking and by 1857 the Commissioners of Supply for Zetland reported that,

"Since the formation of the Main Lines a few years ago, by which communication with remotest districts has been opened up, the value of every kind of Farm Produce has been greatly increased. Cattle, Sheep, and Horses (of which the prices were previously quite unremunerative) have greatly risen in value; and, while the market at Lerwick has been amply supplied with every kind of country produce, the Inhabitants of the remoter districts have

benefitted by the competition which has necessarily resulted from the communication with Lerwick...every Island, however remote, is most essentially benefitted by the Main Lines of Road, which enable Drovers to travel with ease through the entire group of Islands, and in many cases are made use of in the conveyance of Cattle from the remotest islands to the Port of Shipment at Lerwick." (TI 387/115 p. 2)

However, the report was somewhat too complimentary with regard to the achievements of the government since the islands of Unst, Fetlar, Whalsay, and Bressay did not receive their first roads until after the passing of the Zetland Roads Act in 1864 (TI 387/122 a copy of the act). Main roads were taken over, maintained, improved and extended on a district basis under the jurisdiction of the act.

Despite the heavy reliance on sea travel its organization long remained informal with local boats providing the only mode of transport between the islands until 1839. Then a thirty ton sloop called the Janet began to make summer runs from Lerwick to Unst, stopping at intermediate ports along the way. During the winter, however, travel was either overland due to the severity of weather conditions or by sixareens or casual arrangement with passing ships that happened to be travelling south. Both mail and livestock continued to travel overland to Lerwick. The first steamer called Chieftain's Bride of 94 gross tons was introduced in 1868 by the Shetland Islands Steam Navigation Company. The boat made two or three trips each week to the North Isles. By 1877 the Chieftain's Bride was replaced by the Earl of Zetland I which made two journeys weekly to the outer isles (Donaldson, 1978, 65). Few of the ports had piers where steamers could berth until 1866: this included Lerwick. Therefore goods had to be removed to the shore by "flit boats" making the trip north slow and the timing unpredictable.

Travel between Shetland and the rest of Britain was slow and

irregular until 1838. In that year the Aberdeen, Leith, Clyde and Tay Shipping Company was given a government contract to carry mail to Orkney and Shetland once a week from April to October by steamer although sailing boats were to carry it the rest of the year. This company had been formed in 1810 and was later in 1875 to become the North of Scotland, Orkney and Shetland Steam Navigation Company. The Sovereign, a paddle steamer of 378 tons, voyaged between Leith and Aberdeen, Wick, Kirkwall and Lerwick carrying the mail. This service established a pattern that remained the primary one to Orkney and Shetland for one hundred and one years and it gave Shetland regular access to mainland Scotland. By 1858 the Bressay lighthouse was built and shortly thereafter Lerwick acquired a fortnightly steamer service during the winter. It was only with the company's acquisition of a 448 ton screw-steamer, Queen II, in 1861 that weekly winter visits to Lerwick became really practical. During the summer months of 1866 mid-weekly runs between Aberdeen and Lerwick were added. Later an additional service from Aberdeen to Stromness and Scalloway was established and eventually this became known in Shetland as the 'west-side service' because the boats that docked at Scalloway often called at other west side ports such as Walls, Spiggie, Reawick, Brae, Voe, Aith, Hillswick and Ronas Voe (Donaldson, 1978, 22-3). Shetland now had three mails a week in summer and two in winter. By 1891 the direct Aberdeen-Lerwick link was established and it has remained the major sea connection ever since, (see Donaldson, 1966 (1978), for complete coverage of the sea transportation in the Northern Isles).

Complaints were, however, still being voiced as late as 1899 concerning communications between Shetland and the outside world. The inhabitants were particularly concerned about the slow, irregular mail service that hindered the development of business relations,

especially in the case of the blossoming hosiery trade (D8/364). If a daily steam service to Aberdeen was established, it was thought that disparity in fish prices between Aberdeen landed fish and Shetland landed fish would disappear. Therefore a group of local dignitaries wrote to the government asking that it sanction the expenditure necessary to provide a daily, direct postal service between Shetland and the mainland plus adequate, regular services throughout Shetland (D8/364). However, these developments had to await the coming of air transport.

The greatest changes resulting from improved internal and external communications occurred in the agricultural sector of the economy. Areas such as Tingwall, Weisdale, Whiteness, and Dunrossness which were closest to the trading centre of Lerwick began to change first. Northmavine, Delting, Walls and the outer islands had to wait longer for land and sea communications to improve and for the importance of the fishing sector of the economy to diminish. With the advent of the steamer came the opening of a market for Shetland where none had existed before. By 1855 railroads and steamboats between London and the rest of the country had changed the character of the meat market giving it remarkable momentum. Livestock could now be shipped regularly to Aberdeen, the marketing and distribution centre for fatstock farmers of the north-east of Scotland. The decision to send live cattle south as compared with dead meat was based on the ability of local industries to utilize the slaughterhouse by-products (Perren, 1975, 389). Shetland had neither the local industries nor markets to deal with the offal, hides and fat and so rather than lose the value of this part of the animal, lairds paid the high shipping costs involved in sending live animals south to Aberdeen by steamer. In addition, technology had only recently mastered the steamship and

the railroad but no method of refrigeration had yet been developed.

At Aberdeen the stock was often fattened up and then slaughtered since the growing population of the city provided a ready market for its consumption locally. With the opening of the railway from the south as far as Aberdeen in 1850, the dead meat could easily be transported south to the growing markets. The decision to market stock as live animals or as dead meat was, however, strongly influenced by the two major components of the costs involved: first, the rates charged by the railway to carry livestock versus meat, and second, the market prices of livestock and meat at the destination (Perren, 1975, 390). In the case of Aberdeen, selective shipping of meat to London was seen as the solution since the offal and cheaper parts of the animal could more profitably be disposed of in Aberdeen, while the profits from the more expensive cuts paid the cost of carriage to London (Perren 1975 - gives a detailed account of the British meat and livestock trade).

The destination of meat from Aberdeen was usually London where an inadequate supply of livestock lagged behind the urban demands being exerted by the geographical concentration of population growth (Perren, 1975, 389, 397). The opening of this vast market to Shetland resulted in the rise in value of its agricultural products, especially livestock (NSA, XV, 25; Donaldson, 1978, 64). Sheep from Shetland, for example, were selling for 3s 6d in 1842 (D8/336) but by 1860 they were being exported and sold in Britain for £1 12s. In turn, the profitability of livestock farming in some cases stimulated landowners to resolve their land proprietorship. As Chapter 8 has shown this led to the scattald division process which reached a peak in the 1860s (see Fig. 20). With these improvements Shetland landowners began to view the agricultural side of the economy more

favourably and their changing attitudes became apparent in a formal restructuring of the landscape. This became evident with the growth of the commercial farm as a unit of agricultural production and was paralleled by the changing balance in livestock and crops (Chs. 11, 12). As discussed above, between 1838 and 1858 the improvement of both land and sea transportation and communications stimulated livestock production and by 1861 a regular, weekly steamer service year-round between the Forth and Lerwick had entirely changed Shetland's agricultural position. This in turn provided the landowners with an economic motive for agricultural change.

CHAPTER 11

LIVESTOCK

In 1874 Henry Evershed described the stock of an average crofter:

"The head of stock kept on a farm of eight or ten acres, with unstinted scathold, consists, as a rule, which of course has many exceptions, of two or three ponies, three cows, their calves, yearlings, and two-year-old progeny, two sows, thirty or forty ewes, and five or six hens..."
(Evershed, 1874, 208).

Even though by this late date the practical divisions of commonities among the various proprietors had been on the whole accomplished, little had been done in the way of regulating the use of the scathold and improving the breeds of animals except by progressive landowners in those areas that were physically best suited to farming. As a result the breeding of farm animals was indiscriminate and haphazard and natural selection was the controlling factor. Nevertheless, as Symon pointed out the indiscriminately-bred animal, the product of natural selection, was often better suited to endure hard conditions than animals which, however well bred, were unlikely to survive the winter on a starvation diet (Symon, 1959, 324). There was little incentive to spend money on breeding only to have the animals die during the winter because of the lack of development in agriculture and trade. Major changes were required in the economic environment before any alterations in the agricultural system could be made. Although fishing had always been closely linked to the European economy, agriculture only became involved with the British economy towards the end of the nineteenth century when a wider economic environment at last began to make an impact on agriculture.

By the last few decades of the nineteenth century two major

developments were taking place simultaneously in Shetland. First, a decrease in the population, numbers of pigs and milking cows, and acreages of subsistence crops were indicative of a decline in subsistence agriculture. Second, a shift in emphasis to livestock production for export purposes was indicative of a change towards a stock-rearing economy. Both the Shetlands and the Highlands were similar in their approach to the development of sheep farms. Often the landowners would use old arable land as pasture for stock because, "The old agricultural system, in fact, had bequeathed to the sheep farmers a great store of fertility in substantial areas of low ground which had been highly cultivated and in great expanses of hill land..." (Hunter, 1973, 204). Generally cattle were raised on the better quality grass and fodder grown on the arable townlands, while the rough hill pasture was used to feed the ponies and sheep. However, larger sheep farms (such as those of the Garth estate) also used the arable land for grazing sheep.

Until mid-century numbers of sheep, cattle and horses were annually exported from the islands but due to the lack of fairs these had been sold privately and hence the precise numbers of livestock sold cannot be easily ascertained. Even the total number of animals was not known until 1866. Then an imported epidemic of cattle plague (rinderpest) precipitated an Agricultural Census in 1865-6. This was undertaken by the Board of Trade. However, available figures for both Scotland and Shetland appear to confirm the rising importance of the livestock industry in farming during this period (Whetham, 1962, 238; AF39 23/ 1-4). By 1864 Lerwick possessed its own livestock show which encouraged improvements in the breeds of stock (D6/292/24 p. 311; D12/155/9). Unst, one of the most thriving districts in Shetland, possessed its own agricultural society by

1883 "...which holds a price meeting every autumn at which cattle and sheep are shown..." (Tudor, 1883, 558). Fairs, markets and shows provided Shetland farmers with the opportunity to buy and sell stock, compare farming methods and discuss improvements.

As has been noted, by 1861 Shetland had a regular weekly steam boat service connecting Lerwick with Aberdeen facilitating the transportation of livestock south. From Aberdeen it was then sent by rail to the markets of London. The construction of the railroads was the dominant influence in the increasing importance of the livestock industry. "The greatest effect of the railways can be seen in the much increased numbers of both sheep and cattle in the northern region, previously the most remote from remunerative markets" (Whetham, 1962, 238-9). Although this statement is referring to northern Scotland, its meaning may be extended to include Shetland. In addition to improved communication with the London markets, Shetland lairds were encouraged in their agricultural pursuits by a strong upward trend in meat prices. The trend persisted from 1850 to 1874, except for an interlude of three years between 1865 and 1868 when the British markets were disturbed, first by rinderpest and then by two summers of drought.

However, it took until the mid 1880s before the commercialization of livestock production began to occur on any significant scale. By that time a substantial amount of agricultural improvement had taken place. From this period until the end of the century and beyond scattald divisions, runrig consolidation, the cultivation of a wider variety of crops, the estate consolidation movement by some landowners, improved communications, and finally trade conditions, all contributed to more efficient use of the land by the lairds.¹

¹Wills (1975, Ch. 4) presents a detailed account of the development of the Garth estate in Unst, Yell and Delting parishes through a series of excambions sales of land, and divisions (also see Garth - List of Title Deeds Mar. 1852).

The landowners' changing attitudes towards agricultural products and their role as an export commodity are reflected in the measurable changes that were occurring in the numbers of sheep and cattle as well as in the balance between livestock types. The Congested Districts Board, established in 1897 (60 & 61 vic., cap. 53), tried to encourage crofters to adopt new and better farming methods by sending lecturers north to give instruction on such things as stock rearing (Clark, 59; Adams, 1977, 185; Caird 1964). Cross breeding was slowly getting underway as the shorthorn bull was crossed with Shetland cows to produce profitable beef cattle and the Leicester ram was crossed with the Shetland ewe to produce profitable hoggs. These alterations seem to be in response to external influences such as the supply and demand of livestock products in Britain. Livestock supplies lagged behind population growth in all Britain but as has been noted the situation of inadequate supply was accentuated in London. Britain's agriculture was failing to increase meat production to properly satisfy the needs of expanding urban centres. (This is discussed in detail in an article by Perren, 1975, 385-400). Against this background of rising population, rising prices and more slowly rising domestic meat output the export of stock from Shetland to the rest of Britain was viewed by some landowners as a lucrative option. By the latter half of the century all of the variables seen by the landowners to be essential before they could vary their traditional methods of land management, were basically satisfied and stock changes were a measurable outcome.

Poultry, Geese and Swine

Poultry formed an important part of the subsistence economy and in 1886 it was estimated that Shetlanders had a total of 48,995 poultry. Shetlanders could keep as much poultry and as many geese

and swine as they liked on the scattalds. Geese were kept in considerable numbers on the hills away from the crops during the summer. When autumn came they were exported to Orkney to be fattened on post-harvest stubble in the fields and by the end of the year many of these geese were part of a Scottish family's Christmas dinner. Swine were generally allowed to run wild although occasionally stys were built (for example on the North Cunningsburgh scattald). Pigs, however, could badly damage cultivated lands. As the century drew to a close and landowners began to spend more time and money improving their lands they were less prepared to have it all destroyed by scavenging pigs. Therefore, as the amount of land under the old run-rig and scattald system decreased, so did the numbers of swine (Fig. 29; Table 7).

Ponies

Until the middle of the nineteenth century Shetland ponies or "Shelties" were kept by crofters in small numbers. On average each crofter kept about four or five ponies. Sometimes they were used as pack and saddle animals to carry loads such as peats from the peat banks in the scattald to the croft house (Douglas, 1913, 38-9). The ponies were fitted with a wooden klibber or saddle from which hung the cassies or baskets filled peats.¹ According to the Statistical Account ponies were occasionally used to pull ploughs (OSA, XI, 39, 393; also see Ch. 1). However, oxen pulled the crofter's plough most often as shelties were not considered to be very good work animals. A hardy breed of pony, they were left to fend for themselves on the hills year round.² No thought was given to breeding them for commercial purposes. However, by 1850 the commercializa-

¹ A brief description of this can be found in Evershed, 1874, 203.

² Even as late as the twentieth century the general management philosophy was still to treat the Shetland pony herd as natural and almost wild; the less they were interfered with the better (Douglas, 1913, 86).

FIGURE 29. LIVESTOCK, 1865 - 1900

source: Records of the Dept. of Agriculture & Fisheries

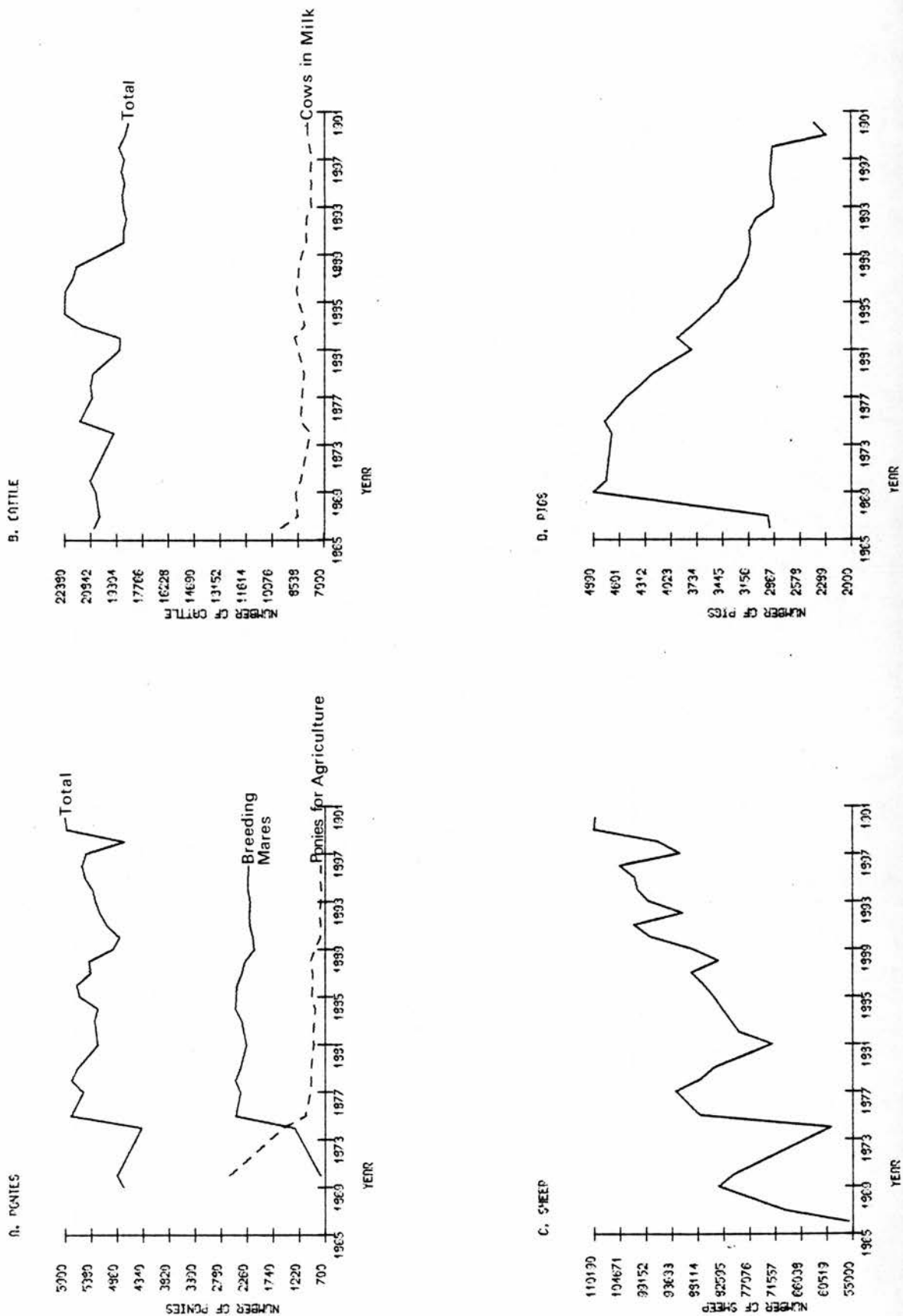


TABLE 7
LIVESTOCK, 1866-1900

YEAR	COWS IN MILK	TOTAL CATTLE	SHEEP	PIGS	PONIES FOR AGR.	BREEDING MARES	TOTAL PONIES
1866	9552	20634	55844	2915			
1867	8551	20290	69456	2936			
1869	8636	20521	83632	4889	2604	788	4728
1870	8367	20861	80613	4744	1529	1303	4851
1874	7799	19472	59514	4683	1091	2480	4361
1875	8356	21462	87624	4760	987	2386	5779
1877	8279	20745	92783	4525	973	2486	5531
1878	8229	20840	87601	4367	975	2391	5769
1879	8145	20694	84635	4225	921	2267	5651
1881	8513	19117	72156	3789	932	2313	5244
1882	8712	19095	79303	3949	908	2358	5270
1883	8132	21345	81163	3788	891	2482	5305
1884	8222	22373			959	2470	5244
1885	8465	22377	84727	3497	944	2453	5605
1886	8611	22327	86881	3415	940	2359	5662
1887	8509	21905	89450	3277	988	2294	5388
1888	8450	21704	83712	3212	902	2110	5413
1889	8298	20263	89447	3152	787	2134	4939
1890	8020	18876	98320	3129	785	2196	4803
1891	8023	18884	101629	3143	802	2208	5053
1892	8022	18732	91375	3069	776	2188	5196
1893	7739	18907	98671	2869	772	2238	5283
1894	7768	18977	100937	2864	789	2238	5340
1895	7723	18823	101519	2896	777	2224	5499
1896	7766	19019	104714	2904			5560
1897	7731	18857	91894	4680			5484
1898	7818	19163	96650	2880			4709
1899	7956	18811	110186	2271			5860
1900	7965	18626	110007	2407			5898

source: Records of the Dept. of Agriculture & Fisheries

tion of the Shetland pony trade had begun and it continued until the turn of the century.

As a result of the change from subsistence to stock-oriented agriculture a gradual reduction in the total area under crops occurred while at the same time the amount of pasture land increased noticeably (see Ch. 12). Only the larger farms such as Quendale, Sumburgh, and Bigton continued to use the plough and hence the oxen or ponies for cultivating their fields. Crofters and small landowners either had portions of land too small for plough cultivation or they were turning more land into pasture for stock. Statistics for the latter half of the century indicate that the numbers of ponies being used in agriculture decreased rapidly. This decrease is in complete contrast with what was happening in the rest of Scotland, where by 1850 horse-drawn farm equipment used in agriculture intensified the use of horsepower and all districts showed an increase in the number of farm horses (Whetham, 1962, 237). Although Shetland was experiencing a decrease in the number of ponies involved in the agrarian sector the numbers of breeding mares and unbroken foals and ponies were increasing. The sheltie was beginning to be bred for export (see below), first to work in the mines and after 1870 also for pleasure riding purposes (Fig. 29; Table 7). In 1865 it was noted that,

"Few people have any idea of the extent of the Shetland pony trade...one noted dealer brought over in one season (1857) no fewer than 400. In 1861, 600 went south by steamer and perhaps fifty more by sailing vessels" (D6/292/24, p. 311).

By 1874, however, the total number of Shetland ponies had reached a very low point as had all other types of livestock. Severe weather conditions followed by crop failures in the 1870s may have caused

this drop in livestock numbers (TI 387/78; D6/292/24, pp. 77-8).

In addition the decrease in the numbers of ponies being used in agriculture had not yet been compensated for by the increasing interest that was being taken in the breeding of them for export. However, the following year a dramatic increase in the total number of ponies confirms that the breeding of Shetland ponies for export was underway.

With the establishment of the Marquis of Londonderry's pony stud farm on Bressay and Noss in 1870 the Shetland pony trade became important. The Marquis developed a strain of ponies that fixed many of the best qualities of the breed by selection and close breeding. Thus he was responsible for establishing the set standard and type of modern Shetland pony (Douglas 1913). Because he was breeding the ponies for work in the collieries they became characterized by "... as much weight as possible, and as near the ground as it can be got" (Douglas, 1913, 49). The breed he developed became known as the "Londonderry" pony. The great Northumberland coal mine owner was the only large pony breeder in Shetland although men like John Anderson and Sons, Hillswick, Bruce of Sumburgh (D8/356 Shetland Stud Book), Anderson Manson and Mr. Sandison also did much to improve the breed.

Breeding control on the Marquis' farm was a simple matter solved by keeping the mares on the island of Bressay and the stallions on Noss (Napier, 1884, 1212). Other lairds did not have such a simple task. To control the breeding of the sheep, cattle and ponies successfully physical enclosures were necessary but before this could be accomplished landowners such as Arthur Nicolson needed

to consolidate their estates.¹ However, once this was accomplished many landowners proceeded to raise livestock (including ponies) for export. In 1891 the Shetland Pony Stud Book was published; its aim was to control the quality of the breed.

By the turn of the century the demand for ponies to work in the mines decreased due to the increasing mechanization of the mines. This loss of market was partially compensated for by the export of ponies to North America. According to Douglas (1913) a great demand for the Shetland pony developed on the Canadian prairies where he felt they were used as the school pony early in the twentieth century. Since the farms were widely spaced the pony provided the children with a means of conveyance (Douglas, 1913, 109). It is thought, however, that this comment is deceptive because at this time most of the European immigrants or "new" Canadians of the West could hardly have afforded such a luxury (personal communication - C. Rundell, Spring, 1979).

Cattle

At first cattle were kept as part of the subsistence economy. Each fisherman crofter possessed on average two milk cows and two or three of their progeny. Generally, cattle (like ponies) were left to roam the hills. However, during the last fifteen years of the eighteenth century the price of cattle and hides increased and by the early nineteenth century interest in the export of cattle had developed (OSA, V, 12, 187). It has been estimated that by 1815

¹Through a series of scattald and runrig divisions in addition to excambions and sales of land Nicolson was finally able to consolidate and enclose his Fetlar estate, after which he proceeded to raise livestock (including ponies) for export (Zetland v Nicolson - CS249/7694A, CS249/7964B; RHP6163, 12817; D8/418 Division of Grutton, Aith, Funzie, Strand; Nicolson - 134,140, Report on Valuation, 1873; Napier, 1884, 1240).

there were 15,000 head of cattle in Shetland. Although George Low talked of efforts to improve the Shetland breed by crossing them with Dutch and Danish cattle other sources stressed that little attention was paid to improving the native breed (Low, 1897, 123, 165; NSA, XV, 28).

By the nineteenth century certain landowners were showing increasing interest in developing the cattle trade. Although the export of cattle and ponies predated significant agrarian improvements, it was not until the landscape had been reordered that the export of cattle really began to develop. This restructuring involved the division of runrig lands into separate workable units later paralleled by the divisions of commonities and the laying out of commercial farms. The expansion of the Shetland cattle trade provided an initial reason for implementing agrarian improvements. As early as 1828 Sir Arthur Nicolson was involved in reorganizing and improving his estate. In that year the town of Funzie, Fetlar underwent runrig division. Soon after Nicolson cleared his tenants from his share of the arable land and established one farm (c. 1830).¹ Later the Napier Commission recorded that Nicolson had enclosed parks with turf dykes -- including some of the best arable land -- for grazing sheep, ponies and cattle. Some of these he later exported.

Among the first to establish farms to raise stock for export were the large merchants with estates in the more suitable agricultural areas. The Hays of Laxfirth were among the most prominent families involved in the export-import trade. James Hay acquired the Laxfirth estate in the early nineteenth century and by the 1840s

¹In the process he laid waste thirty houses, however, most of the tenants from the Nicolson estate resettled on the property of Lord Dundas in Funzie, Fetlar (Napier, 1884, 1240; Thomson, 1970, 172).

his son, William Hay had laid out a farm there with stone dykes and regular rectangular fields. Ten years earlier the heritors of the scattald had perambulated their scattald boundaries and proper march stones were placed along it to avoid any disputes (D6/120/9). However, this did not seem satisfactory and in 1837 William Hay of Laxfirth and James Goodlad of Swinister, the proprietors of Laxfirth scattald, wrote a Deed of Agreement in order to supersede more expensive measures for division. William Sievwright acted as the procurator, Gilbert Spence of Hamar was the surveyor, and John Grant and William Merryless were the valuers. The scattald was divided and the deed was registered in the Lerwick Sheriff Court books in 1840 (SC12/53/11). Soon after Hay had the farm of Laxfirth surveyed by Robert Laing, a surveyor from Orkney. The farm consisted of 284 acres of arable and 1002 acres of pasture (RHP11212/2; or NRA(Scot) 0450 - "Map of the Farm & Pasture Lands of Laxfirth, Tingwall" by R. Laing, N.D.). The sole reason for undertaking the division of the scattald and for establishing the farm was to raise cattle which the Hays then exported via their family company, Hay and Ogilvy. The company was involved in the early development of the cattle trade with Britain (Smith, 1972, 197). Later William Hay also established a farm at Veensgarth and Dale located in the fertile Tingwall valley. The Hay family bought both the arable and hill land and later they enclosed the fields and planted much of the previously cultivated land in grass (Napier, 1884, 1428; Evershed, 1874, 210; also see pp282-86 below).

Andrew Umphray, a merchant involved in the cod fishing on the west side, was another landowner interested in raising cattle.¹ By 1860 the family had acquired both the arable and hill land of Reawick

¹In addition to Umphray, Walker of Maryfield, Bressay was also having success breeding cattle.

(Sandsting) and here they established a farm. Between 1860 and 1874, 75 acres of land was reclaimed using drainage pipes and ditches. Farms were laid out and rye grass and turnips were grown as feed crops for cattle (D6/292/24 p. 311). By the 1870s the number of cattle in the parish of Sandsting and Aithsting had reached a maximum (Table 8).

During this period other parishes such as Fetlar, Yell, Delting, Walls, and Northmavine also reached a peak number of cattle. The east side fishing parishes of Fetlar, Yell and Delting exhibited increases in their number of cattle as a result of a few profitable farms and the numbers of cattle kept by crofters operating their holdings at a subsistence level. In the west side parishes of Walls and Northmavine the number of cattle reached peaks in the 1870s and 1880s respectively. However, here except for the old proprietor-held farms the pastoral side of the economy still operated at a subsistence level supporting the dominant industry of fishing.

In many cases the reason for creating the earliest farms was to raise cattle for export to the large British markets which were developing as a result of the flourishing industrial revolution. Cattle 'on the hoof' were shipped south to feed the expanding towns of England and Scotland. By the late 1830s trade with Britain was encouraged by the introduction of steam communication and the price of live cattle rose 50 percent as a result. By the 1840s the mail roads were underway, the construction of which increased livestock traffic to the port of Lerwick. Now cattle could be walked by drovers through Yell and the Mainland to the port of Lerwick and then shipped south to the British markets. The most remote islands still lacking roads would ferry their stock to a convenient town on the Mainland and from there they too would be driven south to Lerwick for export (TI 387/115). Only cattle raised on the large

TABLE 8
NUMBER OF CATTLE, 1866-1900

YEAR	PARISHES											
	1	2	3	4	5	6	7	8	9	10	11	12
1866	578	879	989	624	139	844	1003	1354	1387	913	1082	1290
1870	1217	1473	2989	1089	456	1378	1713	2190	2424	1835	1680	2412
1875	1202	1442	2939	1117	470	1540	1963	2239	2465	1901	1857	2327
1880	1119	1333	2397	1088	449	1524	1382	2333	1958	1846	1654	1811
1885	1324	1578	1846	1247	425	1864	2377	2494	2257	2146	1857	1988
1890	936	1551	1925	1050	335	1489	2022	2729	1974	1653	1516	1707
PARISHES												
	1. Bressay, Burra, Quarff						7. Nesting, Lunnasting, Whalsay					
	2. Delting						8. Northmavine					
	3. Dunrossness						9. Sandsting, Aithsting					
	4. Fetlar, North Yell						10. Tingwall, Whiteness, Weisdale					
	5. Lerwick, Culberwick						11. Unst					
	6. Mid and South Yell						12. Walls, Sandness					

Sources: Records of the Department of Agriculture and Fisheries.

farms were exported; crofters' cattle were still of the native breed. Prior to the 1880s little consideration had been given to the improvement of the Shetland breed but by the time of the Napier Commission (1884), experiments involving the crossing of Shetland cattle with shorthorns from Scotland were well underway. This was especially so on Fetlar where both the Nicolson estate and the manse were improving their cattle breeds (Napier, 1884, 1302, Q. 18700). By 1870 the cattle trade was well established.

After 1870 (and in some cases 1885) parishes began to report declining herd sizes (Table 8). There were several reasons for this. Statistics indicate that there was a tendency towards reducing the number of cattle kept for breeding purposes. Hence the number of young cattle being exported to the southern markets was considerably less by 1887. As the breed improved fewer could be supported on the land because of their larger size and hence their increased grazing requirements. At the same time fewer were needed for personal use since crofters were now less dependent on a subsistence economy and as a result the number of milk cows decreased (Fig. 29, Table 7). Finally, crofters and small landowners were changing from cattle to sheep because the latter required less attention and was more easily marketed. Therefore, by the end of the century all of these changes had resulted in a gradual decrease in the numbers of cattle.

Additional reasons for this drop in cattle husbandry may be found outside Shetland. By the closing decades of the nineteenth century the wheat growers of southern and eastern Britain were hit hard by foreign competition as wheat from the great plains of North America began to flood the market. In response to this the wheat growers turned to cattle rearing and dairy farming as grain prices tumbled (Hunter, 1973, 202). The geographical location of

these farms placed them on the doorstep of Britain's largest markets of the south and therefore areas such as Shetland located on the extreme periphery of the Kingdom were operating at a disadvantage in the sellers' market. In addition Britain was now importing meat. The importation of meat on a large scale began in the 1860s with sun-dried "chaqui" from South America for "our poorer classes", followed by corned beef from the United States in the 1870s and by frozen beef and mutton from Australia, frozen pork from the United States, frozen beef from Argentina and frozen lamb from New Zealand in the 1880s (Burnett, 1969, 210). By the 1890s Britain was importing 500,000 head of live cattle annually from these countries. The Shetland landowners with their relatively small estates were no longer able to compete with the vast quantities of beef being imported to feed the British cities.

Sheep

During the last decades of the eighteenth century the Shetland sheep population in the south Mainland was decimated by sheep scab (Psoroptes communis)¹ which began in southern Dunrossness and advanced north. It was said, "...that the spreading of the infection would be ruinous to the tenants as sheep were in many instances the most valuable part of their possessions" (Sheep Scab File - Presbytery of Shetland in Petition to General Assembly of Scotland, Nov. 1786; also Garth - Minute of Commissioners, Dec. 1786). Due to the efforts of the three major landowners in the area -- John Bruce of Sumburgh, William Bruce of Symbister and Arthur Nicolson of Lochend -- a dyke was built across the scattald of Cunningsburgh in 1787 but by 1790 the dyke had fallen into decay due to negligence and the scab was

¹ see Wright, The Standard Cyclopedia of Modern Agriculture, London, 1910, 10, 181, 234.

once more spreading northward (Sheep Scab File - Letter from Bruce of Sumburgh, Feb. 1787; Declaration by A. Duncan, 22 Feb. 1790). Another "scabby dik" was then built in 1794 north of the 1787 one but by this time the disease had killed about two thirds of the sheep stocks of the south Mainland (Sheep Scab File - Sheriff Scott ruling on Petition by Process, Heritors of South Cunningsburgh Nov. 1784; Fenton, 1978, 454; also see Fig. 30). Thus by the turn of the century the sheep stocks of Shetland were depleted. Scab struck again between 1801 and 1807 destroying many flocks. Nevertheless, the lairds' increasing interest in fishing enterprises took precedence over any serious attempts to improve the situation.

Until the 1850s the raising of sheep was part of traditional crofting and the crofters handled their sheep as they had always done. Like cattle and ponies, sheep generally were not controlled in numbers or in breeding. The sheep were left to run on the scat-talds and to fend for themselves except during the early summer when they were driven into the crus, identified by their ear marks, and rooded. Early ventures in sheep farming, however, caused severe losses to the landowners mainly because of the lack of adequate local markets and the absence of regular shipping services to transport the sheep to existing markets in the south (Donaldson, 1978, 64). As noted in Chapter 10, the introduction of steam communication with Shetland in 1838 was followed by the commencement of the export of sheep in the 1840s. According to Skirving (1874) the regular export of sheep on the hoof did not occur until the late 1860s because by that time the regular year-round passage of a line of steamers travelling between Lerwick and the Forth had fully opened up the Scottish market for Shetland mutton and wool (Skirving 1874; ST 17 June 1872; ST 22 Sept. 1873; Evershed, 1874, 187, 209-11;

Donaldson 1978). Improved communications with mainland Britain assisted the Shetlanders in selling their livestock and this in turn helped to increase the value of the sheep industry to the Islands.

In order to meet the demands offered by the new market to the south, Shetland landowners began to turn their attention to the development of sheep farms. In direct response the numbers of sheep in Shetland began to increase, at first slowly and then dramatically (Fig. 29, Tables 7, 9). In the parish of Cunningsburgh, for example, the numbers of sheep rose from 1,878 in 1869 to 3,183 in 1879, an increase of nearly 70 percent (Table 9). In addition to the transportation improvements, favourable market conditions in the south attracted the landowners' attention. The years 1863 to 1873 were favourable years for the sale of wool and mutton on the British market. The prices of both were rising. Wool prices peaked in 1866, however, mutton prices continued to rise until 1883.

In Shetland the initial development of commercial sheep farms is associated with the introduction in the 1860s and 1870 of extensive sheep farming on the Hay estate at Veensgarth, Dale and later at Laxfirth; on the Garth estate in Unst, North Yell, Delting and Bressay; on the Edmonston estate in Unst; and at Kergord on the Black estate. In Tingwall, for example, there was almost a doubling in the number of sheep during the four years between 1866 and 1870. In these and other cases, the resolution of land proprietorship resulting from scattald divisions or excambions of land followed by enclosure and agricultural improvement enabled landowners to take advantage of the existing economic environment. In 1858 the scattald of Dale, Tingwall underwent division and soon after William Hay enclosed the allotments allocated to him at the head of the voe (Hay v Nicolson - CS239 H/46/7; RHP3922, 10611; TI 394/8). After evict-

FIG. 30

MAINLAND
SHETLAND

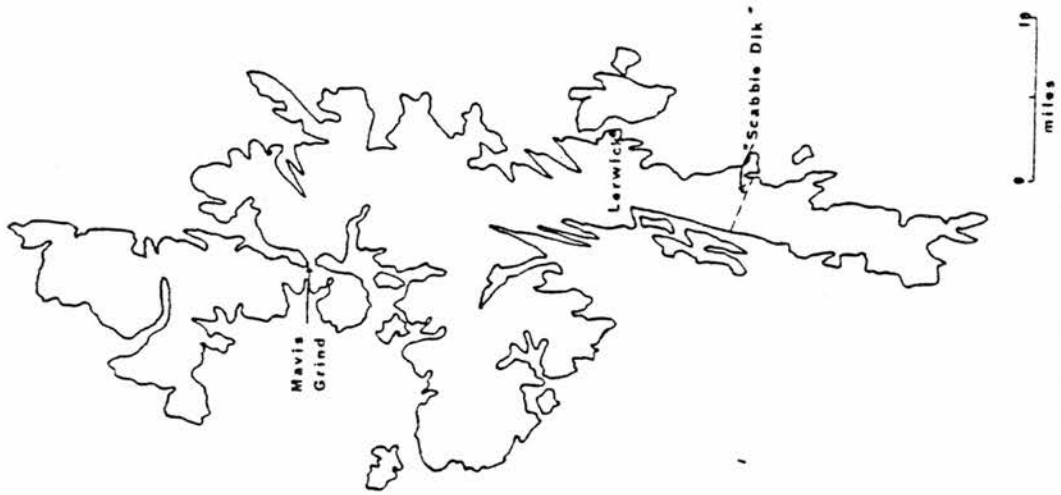
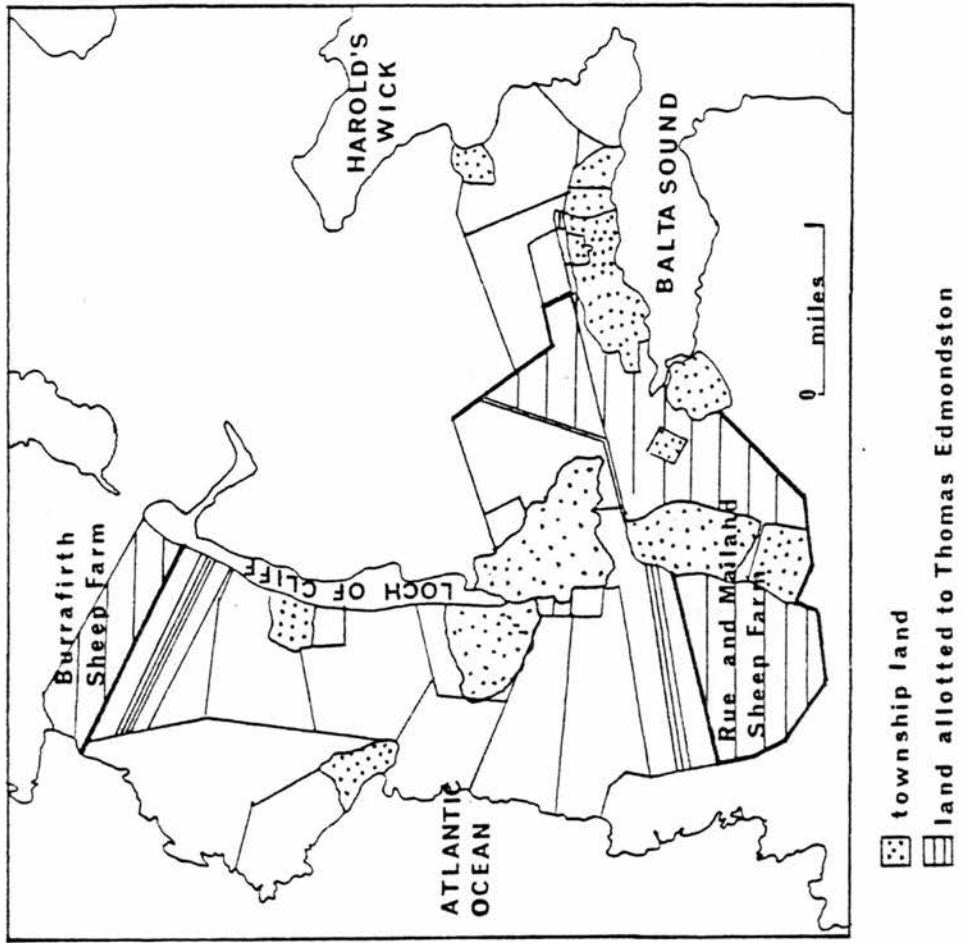


FIG. 31

BALIASTA SCATTALD DIVISION AND THE
SUBSEQUENT ENCLOSURES BY EDMONDSTON



Sources: RHP 6467, 237;
1st O.S.

ing forty families who either resettled elsewhere in Shetland or emigrated, he established a sheep farm. Just prior to establishing the farm at Dale, William Hay had spent a great deal of money on improvements at Veensgarth farm. This included drainage, road making, as well as erecting a farm house, farm buildings and a threshing mill. On the Veensgarth sheep walk of 3,000 acres he raised Blackface, Cheviot, and Leicester sheep. In summer they grazed on the scattald and on the improved pasture of the township and in winter they were fed with hay and turnips grown on the farm. By 1890 the emphasis on the farm of Laxfirth had changed from cattle to sheep as the British market for beef was now being satisfied by imports from the Americas, Australia and New Zealand (Burnett, 1969, 210; also see Cattle above). At the same time improvements such as draining, fencing and fertilizing were implemented by the tenant, Anderson Manson.¹

In addition to the large sheep farms established on the Garth estate in Delting and on the home farm at Bressay, whole townships were turned into sheep pastures in the parish of North Yell between 1850 and 1880 and many crofters were removed.² In 1867 a summons of division was raised for Sandwich and Brough scattalds and the division was completed in 1872 (Mouat v Zetland - CS250/3929, summons only; CS46 19/4/1872). Major Cameron then proceeded to establish large farms on the allotments allocated to him at Kirkabister in Sandwich scattald and Gremister in Brough scattald.³

¹Manson possessed an eleven year lease of the property for which he paid £200 per year.

²A comparison of the census for 1861 and 1881 shows a decrease of 114 persons.

³Compare RHP14994 with the 1st edition OS six-inch maps.

The Edmondston family was foremost in sheep farming in Unst. An excambion of land in Burrafirth between the Earl of Zetland and the Edmondston family in 1870 meant that the Burrafirth scattald was now solely owned by the family and by the time Evershed wrote his article "On the Agriculture of the Islands of Shetland" (1874), David Edmondston had cleared the area of tenants and established a sheep farm which included both the scattald of Burrafirth and an allotment the family had received from the Baliasta division of 1850 (Fig. 31). David Edmondston was also responsible for the enclosure of the Rue and Mailand sheep farm in Baliasta scattald. The scattald was divided in 1859 because the landowners wanted to clarify the land proprietorship in light of the recent mineral finds (see Ch. 6 above). After 1875 David Edmondston enclosed not only the townships of Rue and Mailand but also the surrounding scattald allotments accruing from the division and by 1900 Mailand was registered as a sheep farm with a rent of £50 per year (Fig. 31; VR118 - 1900, Unst). Because of these various sheep farms the number of sheep recorded for Unst continued to increase steadily (Table 9).

Sheep farms tended to be established in the more fertile farming regions of Shetland such as the central mainland. To illustrate this, a comparison was made between the numbers of sheep in the parishes of Tingwall and Walls by using the Agricultural Returns for 1866 - 1900. When compared with the 1866 figures the number of sheep in the fertile parish of Tingwall had more than doubled by the end of the nineteenth century while in the parish of Walls the number of sheep had remained relatively stable for the same period (Table 9). In the haaf fishing areas such as Walls the sheep were mostly of the native Shetland breed. Here the economy was based on a combination of the haaf fishing and subsistence agriculture with fishing

TABLE 9

NUMBER OF SHEEP, 1866-1900

<u>YEAR</u>	<u>PARISHES</u>											
	1	2	3	4	5	6	7	8	9	10	11	12
1866	2699	6910	4856	3315	955	4165	5668	6330	7640	5767	2888	4151
1870	4126	9454	8859	4242	1680	6021	5139	9446	10081	11063	3875	6577
1875	4007	10159	11039	5999	1315	6995	5607	8562	10431	10829	5456	6975
1880	3037	8819	8678	5297	1369	8398	5939	6077	7505	11181	6943	4488
1885	4013	9971	9745	6299	1583	6311	6658	8609	7609	12428	6733	4713
1890	4979	12110	9428	6977	2288	8320	9111	9188	8412	14514	7817	5179

PARISHES

- | | |
|---------------------------|-----------------------------------|
| 1. Bressay, Burra, Quarff | 7. Nesting, Lunnasting, Whalsay |
| 2. Delting | 8. Northmavine |
| 3. Dunrossness | 9. Sandsting, Aithsting |
| 4. Fetlar, North Yell | 10. Tingwall, Whiteness, Weisdale |
| 5. Lerwick, Gulberwick | 11. Unst |
| 6. Mid and South Yell | 12. Walls, Sandness |

Sources: Records of the Department of Agriculture and Fisheries.

providing the dominant occupation. Agrarian improvements were much slower to come here than to other parts of Shetland because the quality of land was poor while the absence of roads and communication with the port and market at Lerwick inhibited the breeding of sheep for export.

The scattalds of Shetland had always been overstocked with animals while little consideration was given to their selective breeding. Although forward-thinking men like Thomas Gifford of Busta had been crossing Northumberland muggs, Blackface, and Cheviots with Shetland ewes in 1814 the majority of the landowners did not become involved in selective breeding until the end of the nineteenth century (NSA, XV, 28, 127-8, 447; Shirreff, 1814, 66). By then Leicester, Cheviots, Blackface and half breeds were being reared and major landowners began filling their parks with Shetland crosses. Although Cheviots were originally more profitable than the Blackface as the price margin of the wool between the two decreased, Blackface sheep became viewed as the more profitable stock since they were hardier and less expensive than the Cheviots (Gaskell, 1968, 105). A Blackface ram crossed with a Shetland ewe improved the quality of both the wool and the mutton.

The numbers of sheep in Shetland began to increase gradually during the latter half of the century. "Sheep prices were rising steadily while wool...almost doubled in price between the early 1850s and the mid-1860s..." (Hunter, 1973, 200). In response to these favourable market conditions Shetland merchants and lairds established sheep farms in those parts of Shetland conducive to them. However, by 1874 the number of sheep in Shetland had plummeted almost back to the 1866 level (Fig. 29). This might have been due to the dramatic drop in the price of wool after 1872 as a result of the

increasing importation of wool from the colonies (Hunter, 1973, 208). At the same time several local factors may have also affected livestock numbers. A harvest failure followed by the loss of stock in the late 1860s hit the crofters especially hard. Many began to consider emigrating and for the first time in one hundred years the census (1871) recorded a decrease in Shetland's total population. In 1875 summer gales caused a number of deaths among the fishing communities. Evictions and the redistribution of the tenant population occurred simultaneously as a result of farm reorganization (see Ch. 14). In some areas the enclosure of hill land by the landowners reduced the amount of scattald land available to the tenants for grazing their sheep.¹ All of these events caused the number of sheep to fluctuate during this period, although the overall trend was still upward.

According to the Agricultural Returns the sheep figures for Shetland showed a dramatic increase during the three years following 1874. By 1877 their numbers had reached a new high of over 92,000, and increase of over 50 percent in three years. However, another downward trend began the following year and by 1881 the total number of sheep recorded was only a little over 72,000. A series of bad winters occurred throughout Britain during the late 1870s and early 1880s. The 1879-80 season was recorded as the worst winter of the century. In addition two elements had changed in the south that affected Shetland. First, the importation of wool had resulted in a drop in the British market price (Hunter, 1976, 131). However, by the 1880s wool prices began to stabilize but they did so at only 40 percent of the prices that prevailed during the peak years of the

¹Numerous complaints about the loss of scattald land were recorded by the Napier Commission in 1884.

1860s (Hunter, 1973, 207). Secondly, Britain began to import large quantities of meat including lamb and mutton to feed its growing population (see Ch. 10; Burnett, 1969, 210). Yet the price of mutton and sheep continued to rise until 1882 and did not begin to decline steeply until the 1890s (Hunter, 1973, 206-7).

Shetlanders continued to increase their flocks and from 1882 until the end of the century an upward trend in the total number of sheep prevailed (Tables 7, 9). By the end of the century fleeces were selling for a low price and this affected the Highland sheep farms greatly. However, the Shetland situation was somewhat different. Since 1839 Shetland wool and hosiery had been viewed as a luxury item and although the dropping prices for wool affected Shetland, the extent was not nearly so great as in the Highlands (Cluness, 1967, 36; Nicolson, 1972, 144; see Hunter 1973). By the latter decades of the century there was a steep increase in the numbers of sheep at the expense of cattle since in the long run Shetland had proven to be better suited to sheep husbandry (Coull, 1964, 139). By the turn of the century the figures for sheep were more than double what they had been in 1866.

CHAPTER 12

CROPS

At the end of the eighteenth century it could generally be stated that,

"...which is under cultivation, and which bears but a very small proportion to the waste and uncultivated part, produces in good seasons, very tolerable crops of barley, and a kind of bleak oats, and abundance of potatoes. Cabbage thrive in every kail yard; but turnip, carrot, parsnip, & c. are only to be found in gentlemen's gardens" (OSA, I, 40, 385-86 (Delting); also VII, 39, 392; XIII, 19, 278; Low (1774), 1879, 81, 130, 142, 147, 153).

Gardens began to appear in Shetland about the same time as they did in the rest of Scotland (Symon, 1959, Chap. IX). As early as 1774 thriving gardens were reported in parts of Shetland. The mansion house of Symbister in Whalsay boasted a garden with cherries and strawberries, peas, radishes and lettuce, while other gardens contained such things as carrots, parsnips, turnips, cabbage and spinach (Low (1774), 1876, 161-76; OSA, VII, 39, 392; I, 40, 385-86; GD144/53 Mitchell to Stewart 1774). In 1820 the land surveyor, Thomas Irvine, established an extensive walled vegetable garden with a variety of plants ordered from a gentleman in Edinburgh (TI391/1, 6). In this case not only were seeds exchanged but also ideas regarding the cultivation of the plants (see also GD144/53 Mitchell to Stewart 1774). By the 1840s travellers such as Sinclair commented on the trouble, labour and expense that some proprietors had gone to trying to cultivate trees and gardens (Sinclair, 1840, 134). Often gardens were the first places where changes in crops and land use were evident because landowners experimented with various new plants and new methods of cultivation on a small scale in their gardens prior to

incorporating them into the field system of their farms. Regardless, by mid century the authors of the New Statistical Account reported that many of these new crops continued to be grown in gardens. Few were cultivated as field crops as a direct result of the lack of enclosures (NSA, XV, 120). However, changes became noticeable soon after when landowners such as Captain Cameron Mouat of Gardie began ordering two types of seeds from the Highland Agricultural Society; those for garden crops such as peas, onions, leeks, parsnips, beets, lettuce, parsley, carrots, cress and radishes, and those for field crops such as cabbages, turnips, perennial rye grass and white and red clover (Garth-Invoice of Seeds 22 Mar. 1853). Changes in the agrarian system were underway. Before details concerning the change in land use are discussed it is useful to present some of the broader patterns of development.

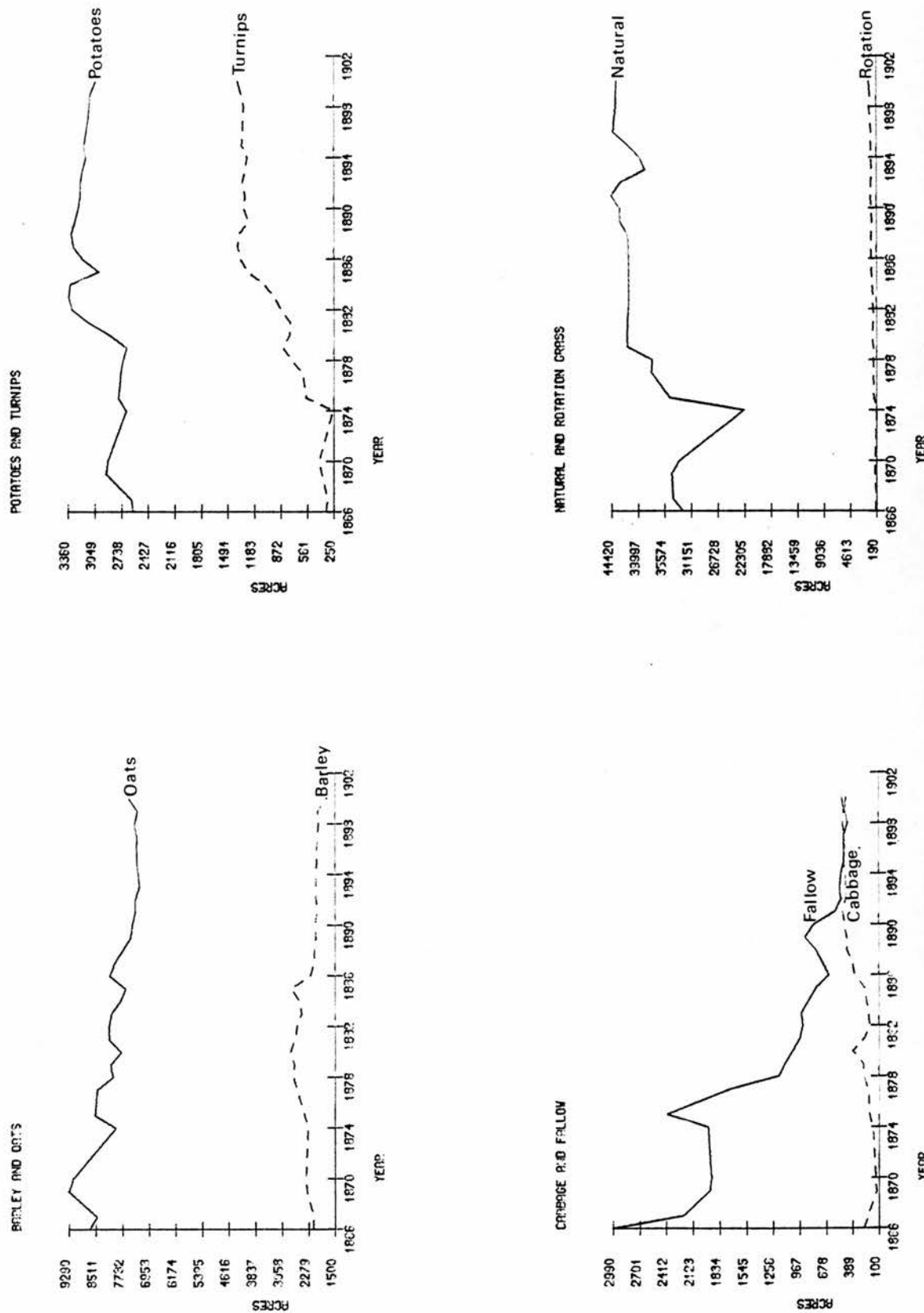
The period 1870-1900 was characterized by a gradual reduction in the total area under crops as well as a dramatic shift in the balance between crops, while at the same time the amount of pasture land increased noticeably (Table 10; Figs. 32, 33). These changes were generally attributed to the shift from subsistence to stock-oriented farming. Under the system which prevailed in Shetland until the 1860s, the population managed to grow what they needed to survive (Ch. 1). Oats, bere and potatoes in varying proportions were cultivated on the arable land much in the way they had been for centuries (OSA; NSA). A few adventurous landowners experimented with new crops, first in their gardens and then if cultivated successfully, they were transferred to the fields and grown as a field crop. By the latter half of the century several events occurred which facilitated subsequent changes in the agricultural system. Scattald divisions clarified land proprietorship and this encour-

TABLE 10
CROP ACREAGES, 1866-1900

<u>YEAR</u>	<u>CROPS</u>							
	Bere	Oats	Potatoes	Turnip	Rape or Cabbage	GRASS Natural	Rotation	Uncropped Bare c Fallow
1866	2139	8695	2609	347	263	32429	427	2983
1867	2133	8469	2628	326		34232	260	2219
1869	2324	9289	2918	396	124	34430	470	1933
1870	2352	9173	2902	424	134	33109	440	1920
1874	2294	7916	2686	260	163	22330	194	1954
1875	2385	8524	2775	572	200	34736	664	2398
1877	2610	8463	2749	618	213	37774	747	1701
1878	2709	8004	2724	743	264	37645	757	1189
1879	2687	8070	2683	846	267	41814	766	1121
1880	2800	7758	2876	765	381	41865	867	1041
1881	2665	8109	3124	763	253	41809	757	957
1882	2610	8123	3313	869	197	41686	761	928
1883	2478	8050	3357	943	211	41628	780	946
1884	2531	7789	3344	1066	233			
1885	2778	7637	3000	1257	253	41673	1036	783
1886	2221	8094	3191	1344	364	41654	1073	643
1887	2108	7964	3300	1375	387	41706	1084	714
1888	2103	7720	3330	1354	443	41839	1072	788
1889	2056	7492	3284	1251	446	43033	933	902
1890	2088	7444	3245	1305	475	43093	1084	809
1891	2026	7362	3223	1287	488	44413	1146	572
1892	2051	7356	3224	1322	458	42951	1099	510
1893	2060	7228	3198	1289	455	38760	951	522
1894	2049	7265	3158	1264	462	39714	1054	511
1895	2035	7305	3179	1330	483	41764	1089	479
1896	2029	7325	3157	1314	475	44089	1052	476
1897	2001	7312	3135	1318	477	43969	1215	479
1898	1981	7387	3121	1304	490	43700	1334	436
1899	2002	7292	3111	1337	477	43716	1244	468
1900	1745	7525	3045	1375	501	43606	1375	456

Source: Records of the Department of Agriculture & Fisheries.

FIG. 32 . CROP ACREAGES, 1866 - 1900

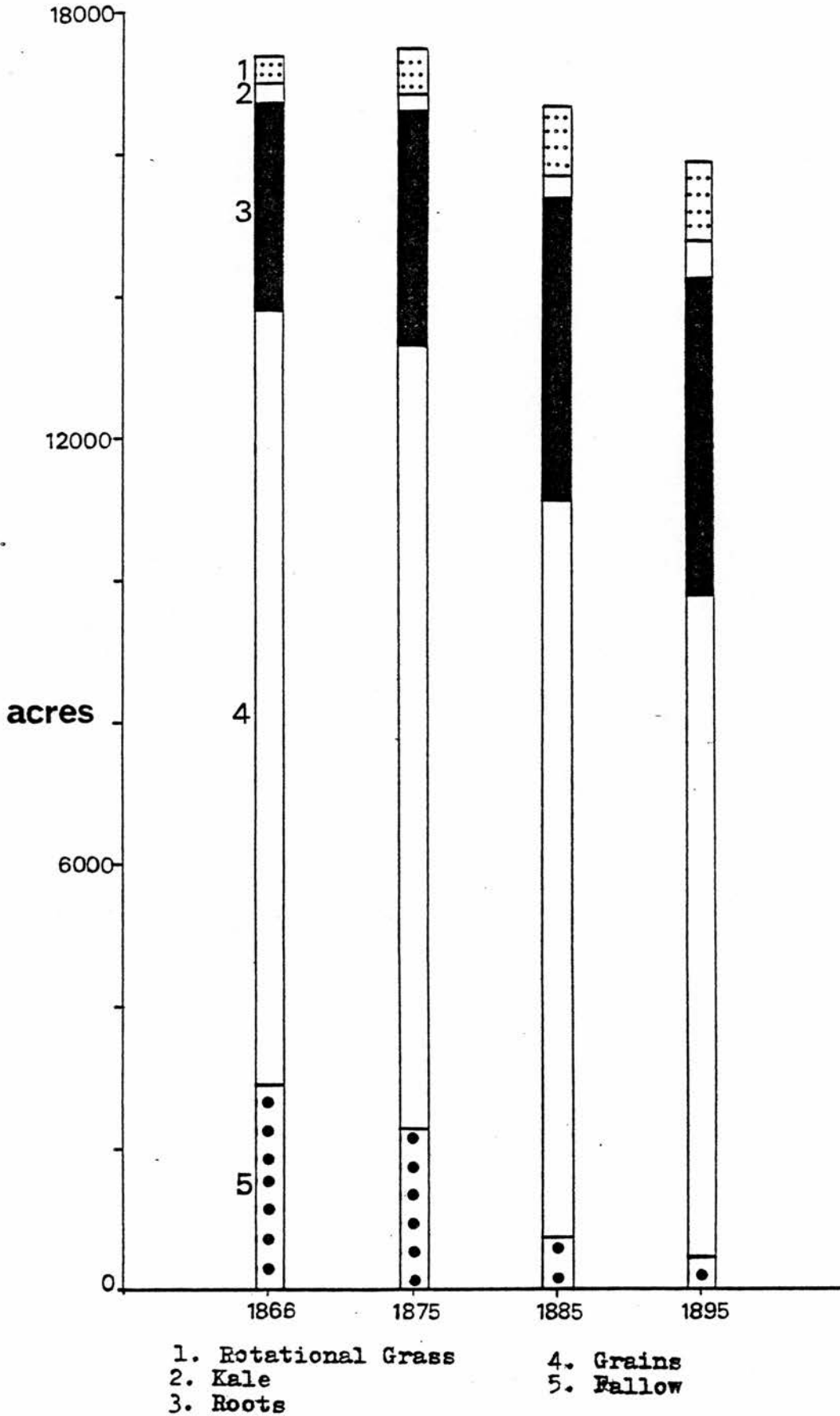


Source: Records of the Department of Agriculture and Fisheries.

FIG. 33

CROPS

source: Records of the Department of Agriculture & Fisheries



aged progressive landowners to consolidate and enclose their holdings so that the improvement of crops and livestock could follow. The attraction of increasing sheep prices caused a decline in the more labour-intensive arable farming in favour of pasture and fodder crops while improved transportation and communication with (mainland) Scotland provided the islands with the foodstuff no longer cultivated on the arable land.

According to the Agricultural Records (AF39 23/1-4) Shetland possessed approximately 17,500 acres of arable land in 1866, but by 1900 this amount had been reduced to a little over 16,000 acres. This rather small decrease of about 1500 acres in the total amount of arable land obscures several major alterations in the crop balance which were occurring during the latter half of the nineteenth century. First, the amount of fallow land fell from being seventeen percent of the total arable land in 1866 to less than three percent in 1900 (Figs. 32, 33; Table 10). Initially, this drop was the result of increasing population pressure but as emigration increased and the population began to drop, improved methods of agriculture combined with the need for land to produce fodder crops caused the continued reduction in the amount of fallow land.

Grains

The grain crops of oats and bere, collectively known as Corn Crops, were the most important crops in terms of acreage in most of Scotland.¹ In Shetland oats and bere together occupied almost 60 percent of the cropped land in any one year (Fig. 33). However, after 1880 the general trend was downward as the acreage of grain crops dropped steadily. Both crops followed a similar pattern of decrease, although

¹Refer to Fenton (1976) for a detailed account of the history of crops in Scotland.

the level of oats was still relatively high at the end of the century as it made the transition from being mainly a subsistence crop to a winter fodder crop.

A combination of factors affected these crops. During the latter part of the nineteenth century flour from the prairies in Canada became readily available and this undermined the crofts' main function of producing the home food supply. As the need for crofters to grow their own grain was reduced, there was a change to produce food for stock (Fenton, 1978, 410; Coull, 1964, 138-40). Barley or bere (*Hordeum vulgare*) for human consumption almost disappeared and was replaced by the cultivation of oats for stock. However, during the difficult years after 1875 when crops and fishing failed some parishes, for example, Bressay, Delting and Dunrossness showed slight increases in the cultivation of the hardy crop here for human consumption (Table 11). In contrast, the parish of Tingwall (including Weisdale and Whiteness) provided an interesting case of almost continual decline in the acreage of bere. Here the development of highly-commercialized farms occurred relatively early which accounted for the decrease in acreage of the subsistence crop. This coincided with the development of sheep and cattle farms and as arable land was turned into pasture there was a subsequent reduction in the acreage of grain. The following quote extracted from the evidence presented to the Napier Commission supports this notion.

"...for the best grain-producing parts of the country have been laid waste for this purpose, have been depopulated and planted with black faced sheep; for example, the best parts of Unst, Yell and Fetlar are in grazing; also in the vales of Dale, Laxfirth and Weisdale..." (Napier, 1884, 1428; also see p. 1293).

A map of the Laxfirth farm dated 1878 supports the above statement

TABLE 11

ACREAGE OF BARLEY, 1866-1900

<u>YEAR</u>	<u>PARISHES</u>											
	1	2	3	4	5	6	7	8	9	10	11	12
1866	251	98	548	89	49	83	144	179	108	216	41	328
1870	230	91	629	82	56	79	187	185	188	215	72	232
1875	221	91	646	82	52	84	205	190	215	202	69	324
1880	257	124	739	95	60	124	135	218	340	192	106	460
1885	226	105	702	69	90	77	100	195	470	208	83	441
1890	239	70	685	51	50	39	71	95	275	116	44	349
<u>PARISHES</u>												
	1. Bressay, Burra, Quarff							7. Nesting, Lunnasting, Whalsay				
	2. Delting							8. Northmavine				
	3. Dunrossness							9. Sandsting, Aithsting				
	4. Fetlar, North Yell							10. Tingwall, Whiteness, Weisdale				
	5. Lerwick, Gulberwick							11. Unst				
	6. Mid and South Yell							12. Walls, Sandness				

Sources: Records of the Department of Agriculture and Fisheries.

(RHP 11212/1-2). The diagram not only shows an area containing thirteen uninhabited houses (possibly allowed to become delapidated after the tenants were removed) but also an area labelled "Ploughed about 25 years ago". Obviously, this detailed map illustrates the changing morphology of the area. It would appear that as division and estate consolidation and reorganization progressed certain areas were cleared of tenants and some of the land previously ploughed for crops became pasture land for stock (see p. 282). The corollary of this was of course the downward trend in grain acreage (Napier, 1884, 1240).

Green Crops

In contrast, the acreage of green crops which included cabbages, potatoes and turnips increased dramatically. Again this reflected the move towards stock farming as arable land was increasingly used to cultivate fodder rather than subsistence crops. Initially the three vegetables were grown as garden crops for domestic consumption. Cabbage or kale/kail (Brassica oleracea) was introduced into Shetland during the Cromwellian era and by 1733 it was widely grown (Fenton, 1978, 100-1; Coull, 1964, 139). In July the seeds were sown in plantie-crus located in the scattald beyond the town dykes. Here they were left to sprout over the winter and in the spring the small plants were transplanted into the croft gardens locally known as kailyards.¹ However, by the end of the nineteenth century in addition to its domestic use, kail was also grown as a field crop and fed to stock during the winter and spring especially if harvests were poor (Webber, 1968, 195). This was the case at Isleburgh sheep

¹ Even as late as the 1940s this custom still prevailed in some areas (personal communication - Mr. Halcrow of Tow, Cunningsburgh - Summer 1978).



Plate 14 Plantie crus, located in the scattald
on Whalsay.

farm in Northmavine where Blackface and Cheviot sheep were fed on a mixture of cabbage and straw in winter (Napier, 1884, 1353). By 1900 the cabbage or kail acreage in Shetland had doubled primarily because of the change in its use from human food to stock feed (Fig. 32, 33; Table 10).

Introduced in the 1730s and widely grown after 1750, the potato provided a supplement to the traditional grain food staples (Tudor, 1883, 150; Coull, 1964, 139; Smout, 1969, 251). In addition the introduction of the potato raised the standard of nutrition and provided Shetlanders with a higher caloric yield per acre than any of their previous crops. As a result the potato provided the means of supporting a higher density of population (Flinn, 1977, 427; also Salaman, 1949, 600). Potatoes "...could be cultivated either in bigger plots with the plough or in smaller plots with the spade" (Adams, 1977, 136). Shetland was similar to the Highlands in that the potato was grown as a subsistence crop by each family. "Hence potato plots were small, frequently on poor soil, generally irregular in shape and often broken up by the intrusion of rocky boulders" (Salaman, 1949, 586). In such circumstances the spade was the more effective tool.

As with cabbage and turnip, the potato was first cultivated as a garden crop although soon after it became a field crop and was incorporated into the infield sequence (1790s). Nevertheless, the potato did not take its place in the rotational system until the mid-nineteenth century. During years of dearth much of the population lived on potatoes and fish throughout the winter (Low (1774) 1876, 97, 130). However, when the infamous potato famine struck in the 1840s Shetland was not affected to the same extent as the Highlands and Ireland. Shetland possessed a broader food base which

consisted of fish, grains and dairy products as well as the occasional meat or fowl (Smout - Fall lecture, 1976, Geography Dept., University of Edinburgh; Low (1774) 1876, 90, 194).

Table 10 indicates that by the 1860s potatoes were grown on approximately 2600 acres or 15 percent of the arable land, although on smaller holdings operating at a subsistence level as much as one quarter of the crop acreage consisted of potatoes (Tudor, 1883, 150). The acreage continued to increase until the 1870s when the potato, like other crops, responded to severe weather conditions¹ with a slight drop in acreage. However, by 1880 the acreage of potatoes was on an upward trend once again reaching a peak in 1883-4. This increase seemed to coincide with two specific agricultural changes -- the reclamation and enclosure of land and the increase in livestock numbers (see Ch. 13; Table 7). The potato was a cleaning crop and as such it was extremely suitable as a first crop in reclaiming rough land, old pasture or wet soils (Symon, 1959, 116, 372; Fenton, 1976, 110). Often potatoes or turnips were planted on newly-enclosed scattered land for this purpose. This kind of reclamation led to the overall increase in the extent of cultivated land and in particular, to the increase in the acreage of potatoes. In addition to providing relatively cheap food for human consumption, potatoes were also valuable food for fattening stock, improving breeds and allowing overwintering of stock (Fenton, 1976, 110; Symon, 1959, 370). Thus, as livestock numbers increased so did the acreages of feed crops such as potatoes.

After the mid 1880s a general decrease in the acreage of cropped land in favour of pasture was paralleled by a gradual downward

¹Severe weather conditions are mentioned in TI 387/78 and CE 85 1/12 pp. 344-5, 27 Feb. 1872.

trend in the acreage of potatoes (Figs. 32, 33; Table 10). Other crops such as turnips or grass which were better suited to animals became more common as stock feed while the importation of food and the subsequent decline in subsistence agriculture also caused a drop in the potato crop acreage.

"...the great field rival of the potato was the turnip. The two had many points in common: they had been introduced about the same time; both were cleaning crops, and both yielded large amounts of food per acre. The potato was, however, more suited for human consumption than the turnip which was better suited to animals" (Symon, 1959, 372; also Fenton, 1976, 110).

Along with wheat and flax Reverend John Turnbull of Tingwall began to cultivate turnips in 1807 (Nelson, 1965, 46). By 1809 he was still the only person growing the root crop, however, a decade later every farmer in Tingwall grew some (O'Dell, 1939, 76). Like the other green crops previously mentioned turnips were first grown as a garden crop for domestic consumption, although by the 1840s it was generally stated in the New Statistical Account that "...more recently field turnips on a small scale have become general ..." (NSA, XV, 63). Men like Thomas Irvine who took an active part in improving Shetland's agriculture often served as advisors to those wanting to cultivate some of the new feed crops such as turnips (see Ch. 9 - Thomas Irvine.).

Turnips played an important role as they enabled the farmer to overwinter his stock, improve his breeds and improve his land by cleaning it. Previously, most stock was either slaughtered during the winter or left to forage for themselves on the scattald. Now cattle were fattened for market on turnips while sheep conveniently ate them right out of the fields in winter. However, "...because turnips are so vulnerable to the depredations of animals the rate

of diffusion of the crop was conditioned by the presence or absence of enclosed fields" (Fenton, 1976, 115) and as a result, the cultivation of turnips developed in conjunction with the development of enclosure and field rotations. In parishes where landowners were involved in farm consolidation and reorganization they often constructed stone dykes around fields of six or seven acres and in this way they were able to practise rotation and incorporate the turnip into their system. This was the case at Quendale (Evershed, 1874, 213). Table 12 and Figure 32 illustrate the general expansion of turnip husbandry during the last decades of the nineteenth century, particularly in those areas where commercial farming was on the increase -- for example, Bressay, Unst, Tingwall and Dunrossness with Dunrossness displaying the greatest acreage.

Of particular interest are the parishes of Tingwall and Walls. Because of early improvements which included the enclosure of fields, the cultivation of feed crops and the development of stock farms,¹ Tingwall possessed a sizeable acreage of turnips at an early date and continued to exhibit a steady rise in acreage throughout the period (Table 12). By contrast, in parishes such as Walls (or Northmavine) where subsistence agriculture combined with a fishing economy survived the longest, root crops such as turnips developed late in the century. Since much of the land remained undivided and unenclosed tenants could not raise crops of turnips because they were unable to protect them from the promiscuous grazing of stock.² Until 1880 Walls

¹For example, Laxfirth farm (RHP 11212/2; Fenton, 1978, 54) and Veensgarth farm (RHP 10611; Evershed, 1874, 210).

²As late as 1959 arable land in Walls still remained undivided and unenclosed (Coull, 1964, 141).

TABLE 12

ACREAGE OF TURNIPS, 1866-1900

<u>YEAR</u>	<u>PARISHES</u>											
	1	2	3	4	5	6	7	8	9	10	11	12
1866	26	12	57	6	18	25	29	26	69	137	25	12
1870	32	11	87	5	19	10	18	7	98	64	50	17
1875	25	17	148	12	28	14	23	11	89	93	84	22
1880	56	22	213	13	29	15	35	16	107	104	71	69
1885	93	191	368	31	32	204	47	280	277	167	261	173
1890	111	39	336	36	37	36	61	46	195	142	109	152
<u>PARISHES</u>												
	1. Bressay, Burra, Quarff						7. Nesting, Lunnasting, Whalsay					
	2. Delting						8. Northmavine					
	3. Dunrossness						9. Sandsting, Aithsting					
	4. Fetlar, North Yell						10. Tingwall, Whiteness, Weisdale					
	5. Lerwick, Gulberwick						11. Unst					
	6. Mid and South Yell						12. Walls, Sandness					

Sources: Records of the Department of Agriculture and Fisheries.

reported few acres of turnips. By then, however, tenants in the outlying fishing regions were beginning to grow turnips on a small scale to feed both their flocks and themselves (Wheeler, 1964, 22). As a result, by the end of the century Walls possessed the third largest acreage of this root crop in Shetland (Table 12).

Between 1880 and 1885 most Shetland parishes exhibited a large increase in turnip acreage since by this time the major sheep farms were established and root crops were cultivated as winter feed for stock. The improved farm at Reawick, for example, was described as "...a corn and turnip farm, with summer grazing and winter feeding of cattle" (Evershed, 1874, 211; D6/292/24 p. 311). By the end of the century turnips occupied almost ten percent of the arable land; this represented more than a fourfold increase in the crop acreage in less than thirty-five years (Table 10; Fig. 32). And yet there were communities (e.g. Funzie, Fetlar) where fodder crops such as the turnip were still virtually unknown and in such areas the meadow or grass land was characteristically assigned a high value (Thomson, 1970, 178).

Natural and Rotation Grass

Initially, Shetland husbandry was restricted to the production of grey and black oats and bere, and the straw from these provided the only winter fodder except for the hay prepared from the wild meadow grasses. Few sown or rotation grasses were cultivated during the early nineteenth century as it was not profitable to do so until the land had been enclosed. However, at the time of writing the New Statistical Account it was reported that crops of rye and clover grass were flourishing on the Sumburgh estate, Dunrossness, while landowners in Unst were experimenting with cultivation of grasses

(NSA, XV 94). Nevertheless, these cases seemed to represent exceptions. The majority of parishes still reported that artificial grasses could not be cultivated until enclosure occurred and dykes were constructed and as a result winter fodder continued to be produced from the natural meadow and hill grass (NSA, XV, Aithsting).

During the latter half of the nineteenth century a dramatic increase in the acreage of rotation and permanent grass land resulted as the emphasis in farming changed from subsistence to stock (Table 10; Figs. 32, 33; also pp. 230 , 266). Although Shetland breeds could survive by grazing on the open hill the new breeds required better pastures and a supply of winter fodder. Therefore, as the subsistence economy gave way to a pastoral one, labour-intensive farming declined in favour of pasture and fodder for stock.

"...the supply of winter fodder was critical in deciding the numbers of stock that could be maintained. Improvements in agriculture brought a new range of new possibilities into play --- turnips and potatoes, hay and straw in greater quantities than before --- and better food and better overwintering possibilities not only allowed greater numbers of stock to be kept, but also gave an opportunity for the breeds to be improved" (Fenton, 1976, 141).

The diffusion of rotation grass as the name implies was dependent on enclosure and the development of field rotations. In the parishes located on the periphery such as Northmavine, Walls and Nesting where subsistence agriculture combined with a fishing economy survived the longest the changes in the acreage of grass were limited. Here the crofter-fishermen grazed their native sheep and cattle on the scattald and natural pastures, occasionally providing fodder from the latter for their stock in winter. Although vast in area these parishes possessed few acres of sown grass

(Table 13). In other parishes where soils were not conducive to cultivation (e.g. Delting and North Yell) natural meadow grasses provided grazing and winter fodder for the stock farms. Delting, for example, possessed only 32 acres of rotation grass but well over 6,000 acres of natural grass (Table 13; Table 14). These fields of grass provided the Garth estate sheep farms with both hay for winter feed and grass for summer grazing. The parish of Unst exhibited the greatest area under permanent pasture (Table 14). The most progressive parishes were generally those with the best arable land; the soil along the coast and valleys of these parishes was conducive to growing crops. Bressay, Dunrossness, Tingwall and Unst --- the parishes in which commercial farming was increasing -- displayed the greatest increases in their acreage of rotation grass. Quendale farm (Dunrossness), for example, boasted 400 acres of enclosed pasture while on its 80 acres of arable land fodder crops including: 16 acres of turnips and potatoes, 32 acres of oats and bere, 16 acres of rye and clover grass, and another 16 acres of grass were cultivated in rotation (Evershed, 1874, 213). By the end of the century the parish of Dunrossness possessed the most acres of sown grass. In addition to creating new pasture by enclosure, some land previously ploughed for crops was allowed to revert back to grass as the population of Shetland decreased and the demand for fodder to overwinter stock increased (see Grains above; Napier 1884, 1234). This was the case at both Veensgarth farm (Tingwall) where it was noted that the best grass grew on the old arable land and Symbister farm (Whalsay) where 100 acres of formerly arable land was permanent pasture land by 1874 (Evershed, 1874, 210, 215). As a result of the establishment of farms like these, the area planted in rotation

TABLE 13

ACREAGE OF ROTATION GRASS, 1866-1900

<u>YEAR</u>	<u>PARISHES</u>											
	1	2	3	4	5	6	7	8	9	10	11	12
1866	181	2	50	0	0	0	0	3	0	143	45	0
1870	9	0	60	3	50	8	0	6	24	196	65	0
1875	3	20	168	11	21	3	15	10	49	111	232	0
1880	95	21	173	13	37	18	29	16	74	186	194	17
1885	59	40	287	15	12	25	32	45	38	222	173	42
1890	68	32	280	20	56	18	20	33	87	239	189	53
<u>PARISHES</u>	1. Bressay, Burra, Quarff 2. Deltling 3. Dunrossness 4. Fetlar, North Yell 5. Lerwick, Gulberwick 6. Mid and South Yell 7. Nesting, Lunnasting, Whalsay 8. Northmavine 9. Sandsting, Aithsting 10. Tingwall, Whiteness, Weisdale 11. Unst 12. Walls, Sandness											

Sources: Records of the Department of Agriculture and Fisheries.

TABLE 14

ACREAGE OF NATURAL GRASS, 1866-1900

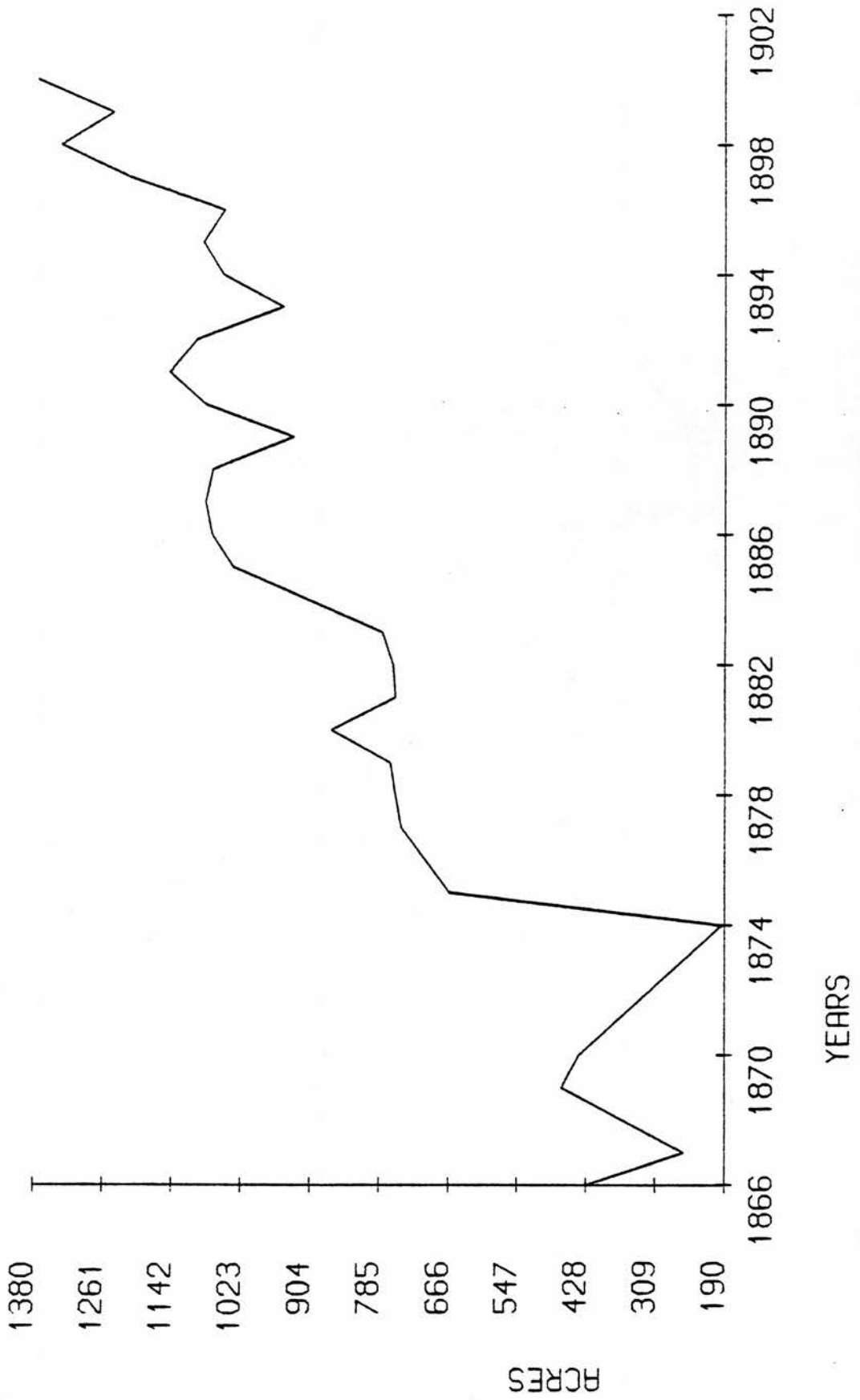
<u>YEAR</u>	<u>PARISHES</u>											
	1	2	3	4	5	6	7	8	9	10	11	12
1866	1459	5123	1809	5678	538	1053	1234	6008	1933	2551	3086	1953
1870	1622	4460	2285	5733	439	1228	1416	6040	2078	2698	3041	1963
1875	1685	4551	2418	5706	477	1554	1452	6473	2128	3178	3050	2058
1880	1605	5330	2669	5731	779	—	1622	6725	2281	3369	7625	1946
1885	1376	5936	2473	5832	774	1872	1681	6398	2227	3473	7799	1828
1890	1756	6437	2756	5908	769	1930	1738	6179	2267	3729	7822	1797

PARISHES

- | | | |
|---------------------------|---------------------------------|-----------------------------------|
| 1. Bressay, Burra, Quarff | 5. Lerwick, Gulberwick | 9. Sandsting, Aithsting |
| 2. Delting | 6. Mid and South Yell | 10. Tingwall, Whiteness, Weisdale |
| 3. Dunrossness | 7. Nesting, Lunnasting, Whalsay | 11. Unst |
| 4. Fetlar, North Yell | 8. Northmavine | 12. Walls, Sandness |

Sources: Records of the Department of Agriculture and Fisheries.

FIG. 34 ACREAGES OF ROTATION GRASS, 1866 - 1900



grass had more than tripled in the years between 1866 and 1900 (Figs. 33, 34), while the area covered by permanent or natural grass had increased by more than 11,000 acres (Fig. 32; Table 10).

These were perhaps the most striking changes in land use as they reflected the changing emphasis in agriculture from producing subsistence crops such as grains, potatoes and some cabbage and grass, to stock farming where the arable land was sown mainly with fodder crops to support the livestock. By the beginning of the twentieth century Shetland's economy was based essentially on stock-rearing with cultivation of crops playing a secondary role.

CHAPTER 13

ENCLOSURE, DRAINAGE, FERTILIZER, AND ROTATION

As the previous chapters have illustrated, improved communication with the islands coupled with the increasing demand and hence price of agricultural products on the British market (in particular cattle and sheep) provided Shetland lairds with the economic incentives to divide and improve their land (see Chs. 10, 11). As a result improvements in the form of enclosing, draining, fertilizing and crop rotation often followed divisions as progressive landowners displayed interest in improving the productivity of their estates.

Enclosure

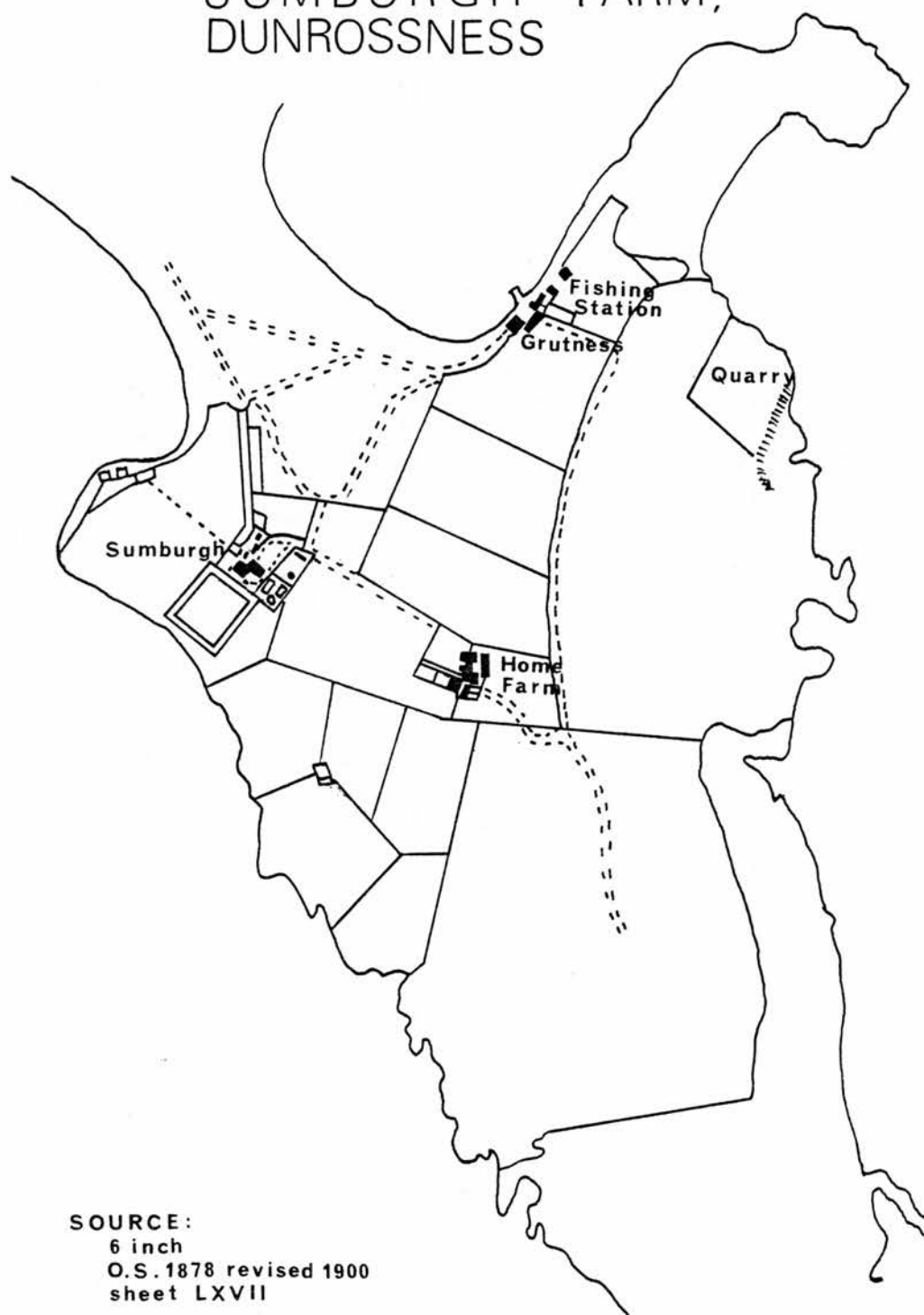
Enclosure in Shetland as well as in the rest of Scotland referred to the process of constructing dykes, fences, or ditches around portions of land forming field boundaries (Adams, 1977, 120). Land was enclosed either to keep stock in or out. Early records indicate that prior to the nineteenth century few enclosures existed except for the odd manor house garden and the head dyke of stone on turf that encircled the arable land of each town separating it from the scattald (OSA, I, 392; V, 202; VII, 584; NSA, XV, 48, 65; Shirreff, 1814, 39; Evershed, 1874, 191). Livestock grazed on the hill pasture in summer while in winter the hill gates were opened to allow them to graze on the arable as well. As population increased towards the end of the eighteenth century great pressure was placed on the small amounts of existing arable land and eventually portions of the scattald were informally enclosed in an attempt to relieve the congestion (Ch. 5). The landowners also realized that it was relatively simple to build a dyke across a ness or peninsula and in this way stock was contained in an enclosed area (see below).

As indicated in the previous chapter some enlightened proprietors began to enclose land around their own houses and to experiment with the growing of new crops and new cultivation methods during the late eighteenth century. Thomas Gifford of Busta, landowner and merchant, was one of the earliest improvers. When George Low took A Tour through the Islands of Orkney and Shetland in 1774 and visited Busta house he discovered enclosed gardens well laid out and planted with a variety of plants which included stunted trees (Low (1774) 1879, 130). By 1791 two enclosures of home farms had taken place in Unst followed by experiments in cultivation methods and stock rearing (Wheeler, 1964, 18). Presumably one of these was Belmont in south Unst, part of the Garth estate. The family had owned the farm and surrounding scattald since 1775 and in 1779 a dyke was constructed across the ness enclosing the farm (NRA (Scot) 0450/2259).

Often the first to carry out improvements were the ministers who were regularly in communication with the clergy on the mainland (of Scotland) and hence familiar with the current agrarian trends. They experimented with various crops and new cultivation methods and as a result their glebes became models of improvement. The ministers served the islands as agricultural advisors (the most famous was Rev. John Turnbull of Tingwall) and they often became outspoken advocates of the necessity of improvement (MacGregor, 1976, 24; Nicolson, 1972, 118; OSA; NSA; Clark).

By the mid-nineteenth century many of the larger estates had successfully enclosed the land surrounding their homes. Figures 35 and 36 illustrate examples of enclosed home farms in Dunrossness. Bigton belonged to the Bruce of Symbister estate while Sumburgh belonged to the Bruce of Sumburgh estate. In 1851 the owner of Bigton wrote to Bruce of Sumburgh to arrange an excambion of land

FIG. 35

SUMBURGH FARM,
DUNROSSNESS

SOURCE:
6 inch
O.S. 1878 revised 1900
sheet LXVII

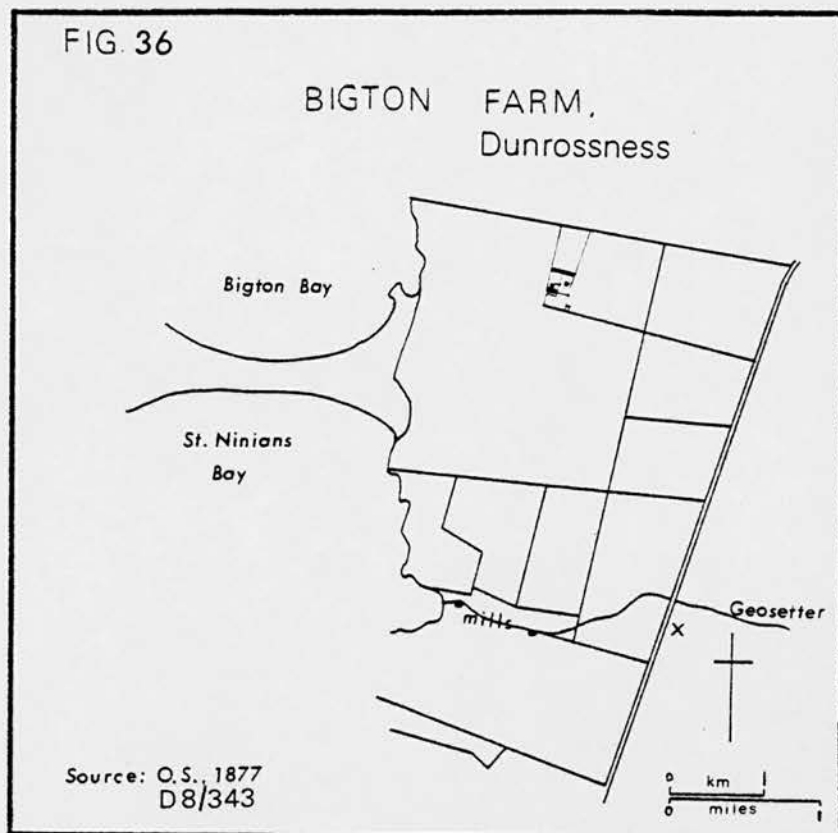


Plate 15 Bigton Farm, Dunrossness looking north-west across the regularly-shaped pastures enclosed by wire fences (foreground) or stone dykes (background). The 'x' in Fig. 36 marks the vantage point from which this photo was taken.

"In order to render the Estate of Bigton more compact..." (D8/409 Symbister to Sumburgh Mar. 1851) and four years later Thomas Irvine surveyed and sketched the manor farm of Bigton showing the manor house surrounded by enclosed gardens and several regular-shaped parks or pastures of varying sizes enclosed by stone dykes and ditches (D8/343).¹ Sumburgh farm was enclosed in the early nineteenth century and as Fig. 35 illustrates the fields again were regular in shape, varying in size and enclosed by stone dykes. Later, Sumburgh Head was enclosed as a sheep run forming an extension to the farm (D8/384, 409; OS 1877 six-inch scale). In addition to being involved in agriculture the Bruces of Sumburgh were also fish merchants and their home farm conveniently included a small harbour and fishing station in Grutness Voe (HU4010).

Once the home farm was enclosed and improved, attention turned to the rest of the estate which included the arable townlands and the hill pasture still held in common. Often disputes arose over rights and usage and landowners began to realize that there was a need to secure proprietary rights and to establish a spatial reorganization of the land. As the idea of communal ownership of property lost favour landowners proceeded to divide their arable and pasture land either privately or through the courts to establish proprietary rights (MacGregor, 1975, Ch. II; Part II). At the same time some landowners attempted to

¹Folklore suggests that Bruce was notorious for not keeping his dykes in repair and when tenants' animals strayed onto his property because of his poor fencing he was known to shoot the beasts. One day when the laird went out to shoot some strays he met a Bigton man who also had a gun and who said to Bruce, "take good aim laird because I am going to shoot an animal too and I never miss". With that, Bruce left and went home. He carelessly left his gun in the house and later his young son was playing with it and was shot dead. Soon after the incident Symbister left and went to Whalsay (personal communication - Aggie Johnston, Cunningburgh, Sept. 1978).

consolidate their estates. By abolishing runrig and re-lotting the arable strips of land (runrig division) and later by establishing the private ownership of the hills (scattald division) landowners could turn some of their land into separate farms. However, without physically enclosing the land it was uneconomic to invest in drainage and fertility, to segregate breeds, or to specialize in stock or unusual crops in order to create better, more productive farms.

By the end of the nineteenth century most of the arable land in Shetland was both divided and enclosed,¹ although this was not always the case with the hill pasture which was usually of a lower value than the arable. Because of the lack of capital, poor transport, too many small holdings and the absence of relatively fertile land, improvements were often not carried through. Landowners such as Arthur Nicolson expressed the opinion that much of the hill land did not warrant the expense of enclosure. In a letter he stated that,

"To divide the common among the heritors would be to say the least of it an unnecessary expense because the property is only valuable for pasturage ...land there certainly could not be brought into and maintained in a state of tillage to say nothing of the expense of enclosures, but at an expense greater than the best arable land in the north of Scotland would cost" (D6/120 Nicolson to Edmondston 1825; also see D8/225 Symbister to Hunter 1792).

As an alternative to enclosure Nicolson suggested pasturage with supervision by shepherds (D6/120 Nicolson to Edmondston 1825). This was often practiced especially during the early years of the nineteenth century. Shepherds were used, for example, prior to scattald division and enclosure in Reafirth and Windhouse, Yell. One George Johnson

¹There are cases where division and enclosure of the arable land was not accomplished until this century, for example, Rerwick, Dunrossness (personal communication - T. Henderson, Lerwick Museum curator, 1978); parts of Walls (Coull, 1964, 141); or Sefster, Sandsting (personal communication - F. Robertson, Shetland Islands' Council, Lerwick, 1978).

called forth to present proof of Reafirth scattald boundaries in 1839 commented that besides having sheep of his own in the scattald he was also shepherd to Mr. Neven of Windhouse and later to Mr. Scott of Gardie, both of whom had sheep flocks on the scattald and on the adjoining one of Windhouse (Ogilvy v Robertson - CS46 87/8/1848 Proof p. 7). Another alternative to enclosure was for individual landowners to use small, uninhabited offshore islands (for example Noss or Mousa) for grazing stock. This method automatically kept the herd or flock separated from others (Coull, 1968, 152).

Once scattald divisions were completed, however, some landowners enclosed their allotments while others did not. As previously mentioned in chapter 6 there were basically two themes which influenced the division of the scattalds. Landowners either saw scattalds as a source of conflict or as an economic asset and their views at the time of division often determined what they did with their private property once the division was completed. If division resulted from conflict over usage the legal clarification of proprietorial rights was seen as an end in itself and physical division in the form of dykes was usually not thought to be necessary, especially in areas where the landowner's capital was invested in fishing and the land was relatively infertile. In Shetland's peripheral west coast parishes, for example, the enclosure of scattald land was not practical and even today few fences are to be found in parishes such as Walls, Northmavine and Aithsting. The added expense of enclosing an allotment followed by draining and fertilizing it before profitable returns from the land could be expected deterred all but the most determined landowner. The Walls case presented on pages 129 and 229 above represents an example of this. Here division seemed to stem from a desire to protect the interests of the tenant fishermen from rural over-population by eliminating multiple

ownership in favour of private property. To the lairds in parishes such as Walls the most valuable asset of the estate was the tenant fishermen and therefore it was essential that their position be protected. Consequently, the scattald was legally divided to clarify each laird's rights in the commonty (SC12/53/13 pp. 205-55). This in itself was costly because division required the hiring of at least two and possibly three professionals -- the commissioner, surveyor and valuator(s). However, once the division was completed and private property was established the lairds were content. Physical division of the scattald was not considered necessary since division represented an end in itself. As expected, when the Ordnance Survey maps were published about ten years after the division, Walls still lacked fences around the scattald allotments as did Northmavine and Aithsting.

In addition to these parishes there were others where enclosure did not necessarily follow scattald divisions.

"It is quite obvious that the divisions of hill land, especially those allotted to the smaller proprietors, were never intended to form viable units; they represented merely an adjudicated allocation of entitlement, a basis upon which redistribution could take place if desired for consolidation." (Wheeler, 1964, 19)

This reasoning may account for the absence of dykes on the scattalds in such parishes as Lerwick, Nesting, or parts of Dunrossness where a large number of proprietors were involved in the division process (CS processes). Proprietors with small holdings in one scattald might decide to sell these and concentrate their efforts and money on larger portions of land elsewhere. Another possible explanation is that many proprietors came to the realization that the new southern breeds of sheep were best suited to the richer pastures of the town lands and therefore there was little need to go to the expense and effort of fencing the poor quality scattalds that were of benefit only to native

breeds (Cluness, 1967, 26; MacGregor, 1976, 73). If during a division a proprietor was allocated an allotment adjacent to lands already belonging to his estate then there was no need to set off the lands from one another. However, in other cases there is no apparent explanation as to why other allocations were not enclosed except that perhaps the expense and effort of erecting previous boundaries meant that there was some delay in erecting succeeding ones. If this delay lasted until the 1880s, "...the Napier Commission and its eventual legislation might have led to the feeling on the part of landowners that it was futile to effect further changes on their land when the Crofters' Commission might nullify their efforts" (MacGregor, 1976, 73). Therefore, for any of these reasons enclosure might not follow legal division, and in areas where enclosure was uncommon the general lack of fences meant that formal division often had little significance. (This was also the case in the West Highlands. - Coull, 1968, 143)

In contrast, lairds in the more fertile areas saw the opportunity to alter the system in favour of cash returns from the land; this required that both division and enclosure occur. Since division was viewed as a necessary prerequisite to agricultural improvement landowners usually consummated these divisions by physically enclosing their allotments.

"...the first step of any improvement must be the erection of a fence and the prevention of encroachment on either side..." (SC12/6/120 Grierson v Symbister 1873)

The type of enclosure varied from region to region depending on local materials and the cost of construction. The original head or town dyke usually consisted of turf or a combination of turf and stone. In the Shetland dialect this dyke was referred to as the 'Fealy Deck', feals being the Shetland word for turf. Later, land was divided by

stone dykes, wire fences, ditches or a combination of these. In 1855, for example, Sir Arthur Nicolson and William Hay, proprietors of the conterminous scattalds of Dale and Gremister agreed to construct a fence, or ditch, or both to separate the scattalds. Later, they decided on "...a Ditch not less than six feet in width, and turf facing, or Dyke on both sides thereof as a march fence" (Hay v Nicolson - CS239 H/46/7 Minute of Agreement Aug. 1855). This boundary was to be constructed at mutual expense. Later, in 1874 the Sumburgh estate enclosed the scattald of South Cunningsburgh with a wire fence paralleled by a ditch (Fig. 37; D8/453).

During the 1870s two major enclosures were under construction in Dunrossness. One was to divide the Symbister from the Sumburgh estate (D8/333, 347, 394 book 5, 712-13; book 6, 167) while the other was to separate the Symbister from the Grierson estate (GD144/220). In both cases the landowners involved agreed to split the cost of constructing a mutual boundary.¹ Instead of following the undulating old boundary it was proposed that in each case these be straightened through a series of excambions to simplify and reduce the cost of the fence construction. The Symbister-Sumburgh boundary consisted of a wire fence paralleled by a ditch through the hill with stone dykes making up the rest of the march on the lower land, the cost of which came to £353, or 9 shillings per fathom (SC12/6/123 Cummons Sumburgh v Symbister 1873). Regardless of the expense Bruce of Sumburgh expressed the opinion that,

"...there is no doubt of the value and advantage of a march fence to each estate. If any improvement is to be made on either, there must be protection from trespass and encroachment" (D8/385).

¹This was also done in Delting where the Garth and Busta estates were conterminous (SC12/6/160 Cameron v Gifford 1898).

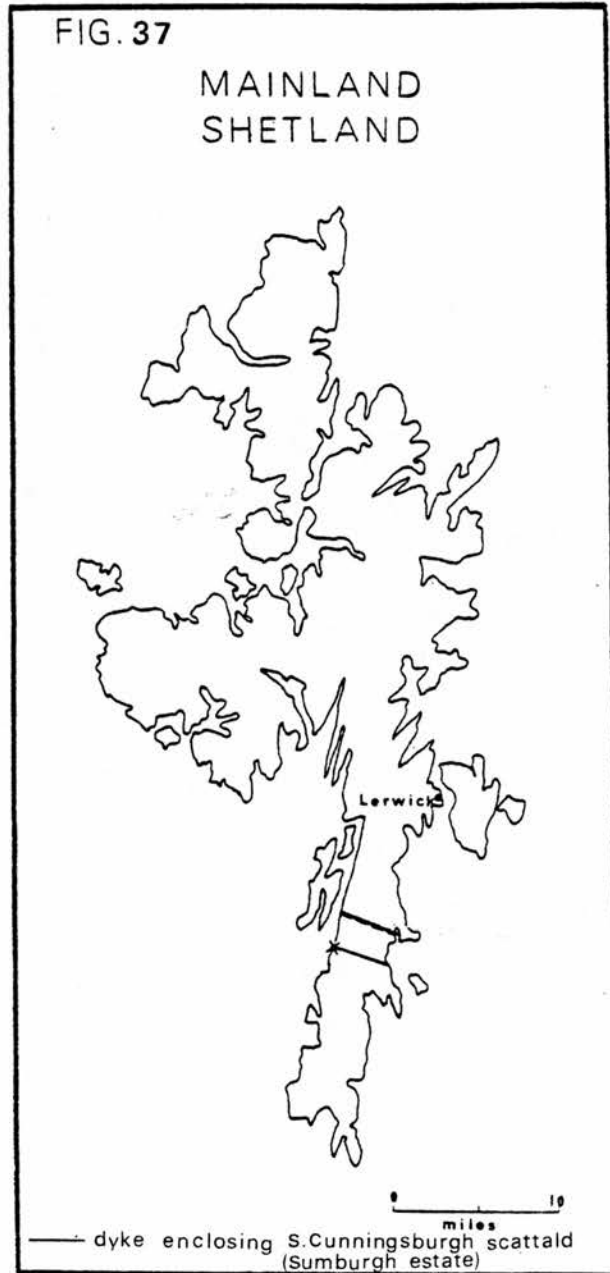




Plate 16 South Cunningsburgh and Hoswick scattald boundary delineated by wire fence and ditch. Taken from the west coast looking south-east. (The 'x' in Fig. 37 marks the vantage point from which this photo was taken).

Earlier Grierson had expressed a similar opinion.

"The want of an enclosing fence must prevent all improving their stock, but also from cultivating the land to the best advantage..." (SC12/6/120 Grierson v Symbister 1873).

All three estates were very valuable, possessing good pasture and arable land and therefore erecting a fence was considered a necessary first step towards improvement. By the time the Ordnance Survey had mapped the area the two estate marches were in existence.

The parish of Sandsting provides a unique example where ditches were used to enclose fields. Here the predominantly peat and heather-covered landscape afforded few rocks for the construction of dykes and therefore the local lairds decided to dig ditches or trenches to mark their fields since wire fences were very costly. By 1862 the scattalds of Easter Skeld and Reawick were owned solely by the Umphray family (Umphray v Johnston - CS46 91/1/1863 Joint Minute 1862, p. 4) and soon after, an excambion between Umphray and Johnson of Tresta gave the former some land in the south of Gruting scattald. Umphray then had his tenants dig a ditch deep enough to prevent animals from crossing it and this formed the northern boundary of the Reawick estate as well as the southern boundary of the scattald of Gruting (or Ayres of Selivoe). (According to traditional accounts forced labour from the Reawick estate was used to dig the ditches.) Other scattald boundaries such as those which radiated out from a high point of land locally known as Berra Runies (HU3150) were also delineated by ditches. Similarly, ditches were also used within scattalds to enclose a proprietor's allotment once scattald division was completed. Ditches marking these apportionments may still be seen in the landscape of Grutton scattald (personal communication - F. Robertson, Shetland Islands' Council, Lerwick, Nov. 1977, Oct. 1978).

Regardless of type, enclosures were necessary if agrarian improvement was to succeed (D8/385; SC12/6/120 Grierson v Symbister 1873). Nevertheless, the Sheriff Court contains numerous accounts documenting disputes over grazing rights which resulted from inadequate fences or a total absence of them. Conflict developed in some areas because although wire fences were erected they were not sufficient to keep out neighbouring crofters' native sheep, ponies or cattle. At Garth in the parish of Delting a sheep walk was enclosed by a wire fence, however, neighbouring stock was constantly straying and pasturing on the enclosed parks. Finally, in 1871 Major Cameron, the proprietor of Garth petitioned the Sheriff Court to stop this unlawful act (SC12/6/119 Cameron v Williamson).

Perhaps the best documented case involving a dispute over the erection of a wire fence is that of the "Cunningsburgh Civil War" so-called by the Shetland Times. Begun in September 1890 the case was not settled until the summer of the following year. Because Bruce of Sumburgh viewed the scattald as the sole property of the landowners to do with as they pleased he saw no reason why enclosures should not be made regardless of the crofters' opinion (D8/453; Clark, 81, 83). Therefore, when sheep farming became profitable he enclosed hill pastures in several districts for his own use. The South Cunningsburgh hill was one such enclosure. In 1874 Bruce had enclosed the best part of the scattald and had turned the land into a sheep run. "...to take away entirely the best part of the pasture was most unfair. It created deep ill-feeling..." between laird and tenant which continued throughout the 1880s (Clark, 3; see p. 316 below). Rents were not reduced nor compensation given and the tenants were compelled to reduce their stock on the hill. Before enclosing the land Bruce required all who made a claim to the hill to sign their right away by

promising that their stock would still have access to grazing. Not only were the crofters deprived of their hill pasture, they regularly were forced to pay the laird poinding fees to regain possession of their sheep. The wire fence was sufficient to contain the laird's new, larger breeds of sheep but the native Shetland sheep found it to be no deterrent. Crofters were constantly reclaiming their sheep, sometimes forcibly from the laird's shepherds. Consequently violence occasionally erupted at the cru when the shepherd attempted to pund the native sheep. A few crofters eventually took it upon themselves to demolish part of the fence and in the end the court ordered the removal of the faulty fence.¹ More commonly, the Sheriff Court was faced with disputes over ownership and rights in the scattalds where boundaries did not exist between allotments. Often one landowner began improvements only to have his efforts thwarted by the lack of enclosures (SC12/6/125 Halcrow v Mouat 1878, Irvine v Henry 1879, McQuern v Thomson 1891). To rectify the situation the 'improver' usually requested that a mutual dyke be constructed at equal expense (see p.296 above).

A scattald enclosure depended on several factors: the fertility of the land, the availability of capital and especially, whether the landowner in question wished to improve the agricultural sector of his estate. All three factors were most often satisfied in the central parishes of Shetland. For example, by the time the Ordnance Survey had completed its survey of Shetland much of the arable and hill land in the central valleys of Whiteness, Weisdale and Tingwall was enclosed

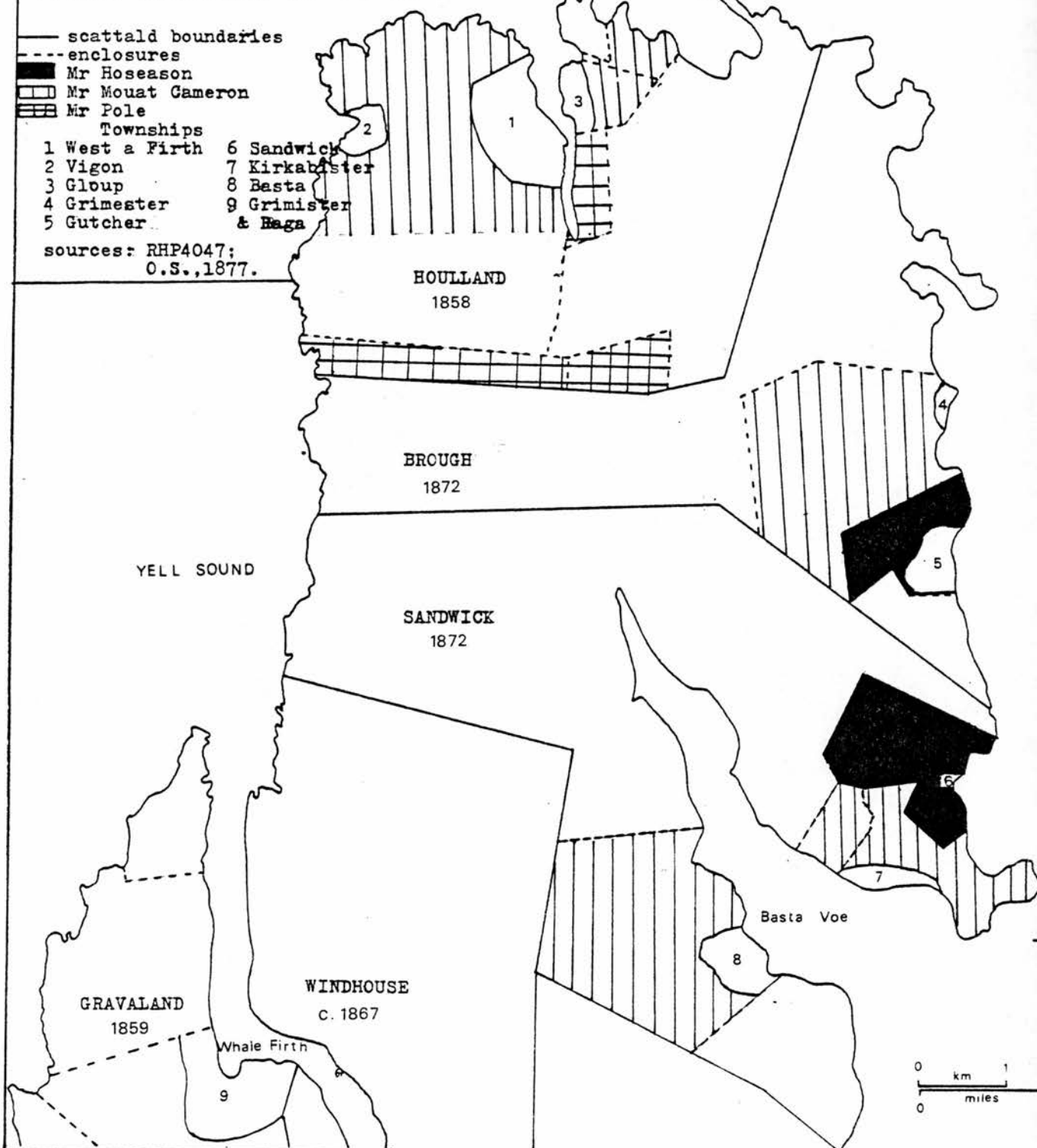
¹ SN 1890 - 27 Sept., 4 Oct., 8 Oct., 11 Oct., 18 Oct., 22 Oct.,
25 Oct., 29 Nov., 13 Dec., 20 Dec., 27 Dec.
1891 - 3 Jan., 24 Jan., 14 Feb., 25 Feb., 28 Feb.,
7 Mar., 2 May, 6 June, 13 June, 20 June, 11 July. Also,
D6/292/24, p. 483.

by a fence or dyke. Many of the smaller farms as well as the larger ones of Veensgarth, Laxfirth, and Asta owned by the Hay estate (RHP 10611) and Kergord owned by D.D. Black were situated here. There were, however, parishes located on the periphery where enclosures also took place. By the time the Ordnance Survey maps were published much of the land in North Yell and North Unst was enclosed. In both cases there were areas of relatively fertile pasture land and the major landowning families, the Edmondstons and the Mouat Camerons possessed sources of capital for agricultural improvement (see below). Moreover, the estate policy in both instances was to transform its hill land into profitable stock farms. To do so required enclosure.

John Walker, factor for the Garth estate, convinced Major Mouat Cameron to turn as much of his estate as possible into sheep farms. To this end a policy of exchanging, buying, selling and dividing land extended over several generations from the late eighteenth until the mid-nineteenth century. By the time scattald divisions were nearing completion the family had concentrated its holdings in the parishes of North Yell, North Unst, Delting, and Bressay (Garth - List of Title Deeds of Annsbrae Mar. 1852; Wills, 1975). Now the estate proceeded to enclose its land and establish pastoral farms. By comparing the Register House Plans produced at the time of division with the Ordnance Survey maps completed in the 1880s it is possible to discover the allotments enclosed by the Garth estate after scattald division.

In addition to the large enclosed farms established on the Garth estate in Delting (MacGregor, 1976, Ch. IV) and on the home farm at Bressay, whole townships and the surrounding scattald were enclosed as sheep pastures in the parish of North Yell between 1850 and 1880 (Fig. 38; Evershed, 1874, 210-11). The first scattald to be divided

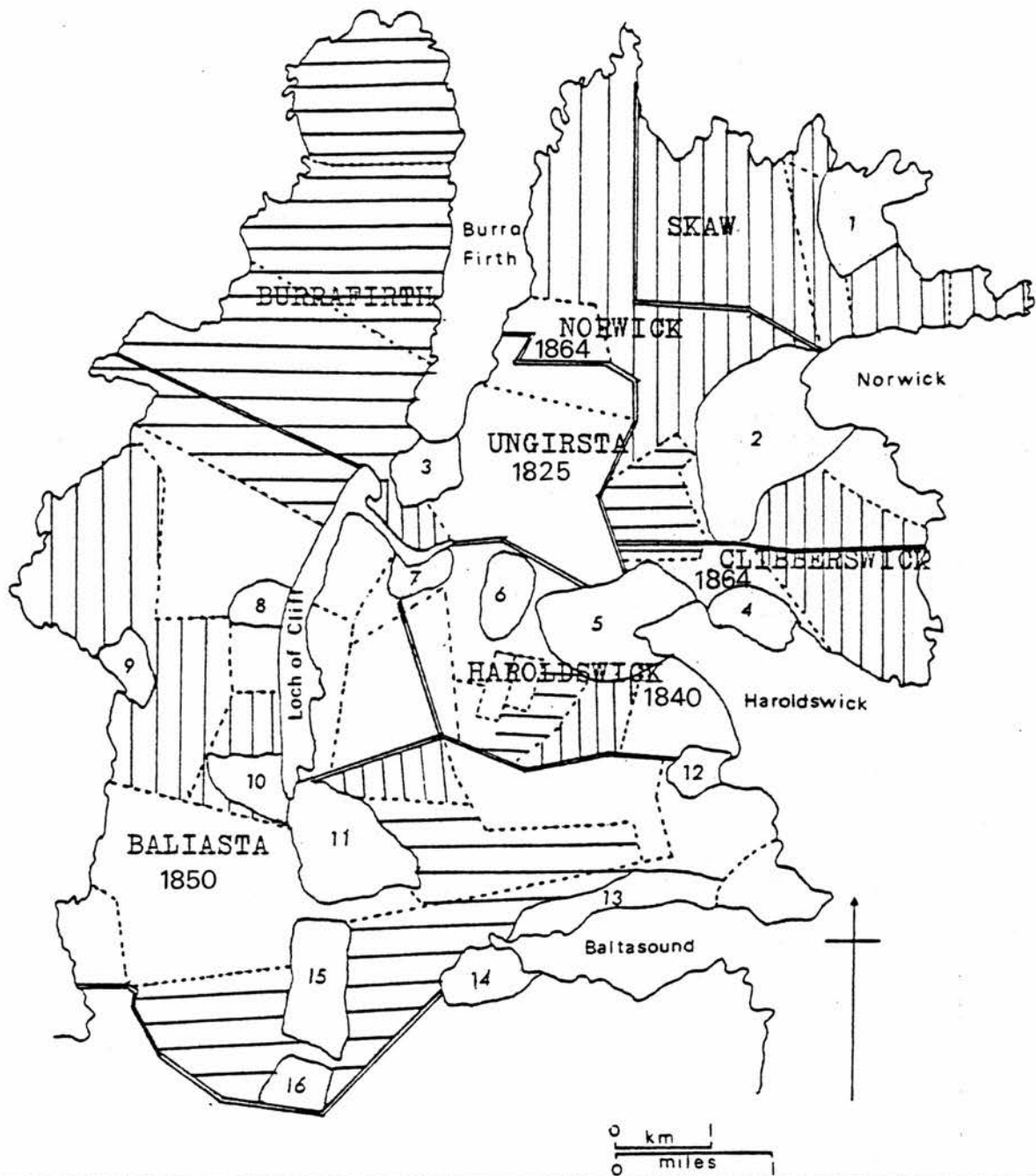
FIG.38 ENCLOSURES ON THE NORTH YELL SCATTALDS, 1877



in the parish was Houlland in 1858 (Spence v Zetland - CS46 35/12/1858). By the time the 1871-72 Valuation Roll was completed several farms were visible on the landscape. Once Garth estate (Mr. Mouat Cameron) had enclosed the hill around Gloup the land had a value of £9 10s. About the same time the farm of West-a-Firth was rented for £118 but ten years later this farm was worth almost double (VR118 - North Yell 1871, 1881). Sandwick and Brough scattalds underwent division in 1872 and soon after Major Cameron enclosed some of the allotments allocated to him. The town of Grimester in Brough scattald for instance was solely owned by the estate prior to the division. Therefore, once the scattald was divided Major Cameron proceeded to enclose his allotment of scattald land surrounding the town to create a farm which possessed both arable and pasture. Similarly, by the time the Ordnance Survey was printed the farms of Kirkabister and Basta in Sandwick scattald were enclosed (compare RHP14994 with Ordnance Survey six-inch maps, 1877). However, the major landowners were not the only ones involved in enclosing their land. Minor lairds in the parish, for instance Mr. Pole and Mr. Hoseason, were also establishing farms where the land was suitable (Fig. 38). Consequently, by the time the Ordnance Survey had completed its survey of the parish a considerable number of acres were already enclosed.

Similarly, most of North Unst was enclosed by this time and again the Garth estate was partially responsible. It was said of Unst that "...the enclosure of scatholds and the division of fields is far more advanced than in any other part of Shetland..." (Evershed, 1874, 223). Once the various scattalds were divided progressive lairds such as Cameron began enclosing land where their allotments were consolidated (Fig. 39). Woodwick farm in Baliasta scattald appeared in the Valuation Rolls in 1871 valued at £49 (VR118-Unst 1871). Soon after

FIG. 39 ENCLOSURES ON THE SCATTALDS OF NORTH UNST, 1877



— scattald boundaries

- - - enclosures

▨ Mr. Edmondston

▤ Mr. Mouat

Besides the above examples other lairds such as the Earl of Zetland, W. Henderson, Spence & J. Ogilvy enclosed their scattald allotments in post division years.

1860 Division Date

sources: RHP237/1, 6469, 6470, 14989:

O.S., 1877

▭ major townships

1 Skaw

2 Norwick

3 Burra firth

4 Clibberswick

5 Haroldswick

6 Stove

7 Quoys

8 Petester

9 Woodward

10 Houlland

11 Baliasta

12 Hagdale

13 Baltasound

14 Voesgarth

15 Rue & Mailand

16 Ingaston

Clibberswick scattald was divided (1864) the farm of Clibberswick was established by enclosing part of the hill and township (compare RHP 6469 with OS six-inch maps 1877). Finally, the Garth estate, which was sole owner of the town and scattald of Skaw, had several pastures enclosed within the scattald as early as 1834 in addition to some in the contiguous scattald of Norwick (Appendix A; GD 236/1/7; Fig. 39).

However, by the 1870s it was the Edmondston family that was foremost in sheep farming in Unst as the number and size of enclosures in Fig. 39 illustrates. Of Mr. Edmondston and his rise to prosperity in the nineteenth century it was said that,

"When he (Mr. Edmondston) succeeded to the 'bit property of Bunes' (An. 1800) he 'could barely realize £50 a year from it'. But getting from Mr. Bolt a tack on favourable terms of Lord Dundas' lands in Unst, supplying vessels, 'Archangel men', especially at that time frequently putting into Baltasound harbour, and managing well his business generally he prospered, and on the discovery of Chromate of Iron in Unst anno 1817, he derived for many years a large, and to the last handsome income from that source, and increasing his purchases of land as such came onto the market..." (D12/153/17).

Over the century the family made a successful attempt to expand their estate. A letter dated 1871 to Edmondston from his solicitor reveals that the estate had increased its holdings by 349 merks over the years since the beginning of the century. In addition, the value of the estate was constantly rising. Between 1866 and 1885 the estate rental or value rose from £520 to £1244 (Edmondston). With capital for improvement obtained from trade, mining and land rent the Edmondstons were able to establish an estate policy of consolidation and expansion followed by enclosure. This resulted in the family possessing several very profitable farms by the end of the nineteenth century.

Cliff and Ordale farms were established in the 1860s. Burrafirth scattald was solely owned by the Edmondston estate by 1870 (Appendix A). Four years later they enclosed 1500 acres of the Burrafirth peninsula with stone dykes six feet high (Evershed, 1874, 214-15) and the following year David Edmondston was paying £120 rent for Burrafirth and Cliff sheep farm (VR118 - Unst 1875). Rue and Mailand farm was enclosed soon after (see Fig. 31 above; Fig. 39). The Edmondstons also enclosed several of their allotments outside the towns of Baliasta, Haroldswick, and Norwick. At Springfield farm on the north side of Baltasound,

"The stone dykes were built by day men paid from 1s.6d. to 2s.6d. for a day of ten hours; the cost per fathom for dykes 3 feet 6 inches high is 1s.5d. Wages are high on this spot in consequence of Mr. Edmondston's successful diggings for chrome ore" (Evershed, 1874, 223).

As the quote above substantiates chromate mining reduced dependency on land rent and provided cash for improvements such as enclosure. During the early nineteenth century Thomas Edmondston and William Mouat had invested capital in mining the mineral iron chromate and since "At the time of its initial exploration it was the only major source in Europe and fetched high prices" (Smith, 1972, 210) the returns from their initial investment provided ready cash for estate improvements such as enclosure.

Enclosure formed a major aspect of land improvements. The relationship with divisions depended on the economic viability of investing capital to physically enclose the land. When it was not viable to enclose, land divisions retained only a legal status with no practical effects on the landscape. Otherwise, enclosures represented an integral part of land improvements.

Nevertheless, improvements were costly and therefore when con-



Plate 17 Gardie House, Bressay surrounded by enclosed gardens.



Plate 18 Sandlodge, Sandwick. Home of Bruce of Sumburgh.

sidering any land improvement a major concern was undoubtedly the availability of capital, especially since most landowners had their money tied up in their estates. However, there were several possibilities open to the lairds of Shetland. Bruce of Sumburgh, for example, acquired capital for his estate improvements from several sources. Profits from his iron and copper mine at Sandlodge, Sandwick provided one source of cash. In addition, both he and Edmondston of Bunness (and others) borrowed money from the Scottish Drainage and Improvement Company (SDIC) to help finance drainage as well as other land improvements (see Field Drainage below).¹ As a merchant laird involved in both agriculture and fishing John Bruce (along with Andrew Grierson and G.H.B. Hay) also depended on the sale of fish and stock for a cash income.² Another method of acquiring capital for agricultural improvements was to increase the tenants' rent. During the 1870s when the Sumburgh estate improvements were at their height (D8/333, 347, 384, 385, 394, 408) Bruce increased the rent of virtually all his Sandwick and Cunningsburgh tenants thus boosting his total rental by a substantial amount.³ However, this act created deep ill-feeling among his tenants (D8/453; Clark's Diary) and in retaliation some refused to pay their poultry and day works (D8/394 book 6,224). On estates such as Sumburgh, tenants were obliged to provide the landowner with so many days of free labour yearly (in this case nine days) or the equivalent in money (Clark, 15). Perhaps in this way landowners were able to reduce their labour costs on expensive projects

¹As Bruce's proposed expenditure on page 312 illustrates enclosure on the Sumburgh estate constituted the largest single improvement cost. From a maximum loan of £2700 a little less than half was spent on this one type of improvement alone (D8/385).

²For example, in 1874 Mr. Hay recieved £1650 for his 1200 lambs at the Leith market (Evershed, 1874, 210-11).

³According to the Owners of Land and Heritage (HMSO 1874) the estate was worth just under £2000. However, by 1875 it was worth £2096 and by 1879 the value had jumped to £2745 (D8/464).

such as the construction of dykes or the implementation of field drainage systems.

Field Drainage

In Shetland as in other regions of Scotland surface drainage was important as illustrated by the widespread use of the ancient ridge and furrow cultivation. The pattern of parallel ridges and furrows created by ploughing facilitated surface drainage (Adams, 1977, 89; also Whittington 1970, 1973; Dodgshon 1975a, b, c; Beresford 1948). Historically, Shetland farmers like their counterparts in the rest of Scotland relied on this system to remove excess surface and sub-surface water from the land. However, by the mid-nineteenth century changes in the open ditch method of field drainage were occurring in parts of Shetland, particularly in the fertile central regions where landowners were beginning to take an interest in agriculture. Here lairds clarified land proprietorship, enclosed the home farm and reclaimed land by draining and fertilizing. In addition to open ditches there were basically two other types of drains in use -- stone drains and tile drains -- and both were costly to install (Fenton 1978, 106). The former were constructed from local materials and were thus more common, while the latter had to be imported by sea at great expense. Delting and Tingwall were among the first parishes to possess stone drains. By 1845 Reverend Paton of Delting wrote that,

"There have been improvements lately made in draining, instead of the old system of leaving an open ditch between each rig, which caused a great waste of surface. In several places, these ditches are filled with stones, covered over, and the land brought into a proper state" (NSA, XV, 58).

About the same time Mr. Hay of Tingwall spent large sums of money on draining and fertilizing his farms of Laxfirth and Veensgarth (NSA,

XV, 66; Evershed, 1874, 210; Fenton, 1978, 54).

In contrast, parishes located on the periphery including North-mavine, Sandsting and Aithsting, and North Yell and Fetlar, continued to employ the traditional ridge and furrow system with open ditches still providing the only surface drainage (NSA, XV, 29, 77, 121). The main concern of the landowners in these outlying regions was fishing and as a result agricultural improvements including drainage played a secondary role.

During the 1840s the zeal for farm drainage was transformed into drainage legislation. In 1840 an Act (3 & 4 Vic., cap. 55) was passed which enabled landowners to raise loans for drainage; in 1846, £2m of public funds were set aside to provide loans for drainage improvement; and in 1849 the Private Money Drainage Act was passed (12 & 13 Vic., cap. 100) and companies such as the Scottish Drainage and Improvement Company (henceforth SDIC) were established to finance drainage and land improvements (Adams, 1977, 98).¹

One of the first landowners to take advantage of this legislation was John Bruce of Sumburgh (D8/408). In 1866 a provisional contract between the SDIC and Bruce was drawn up with the company providing Bruce with a £1500 loan to be utilized to improve the Sumburgh estate. The amount charged for the loan included a five percent commission in the form of an annuity for 25 years with interest at £4 10s per centum per annum. All improvements were to be completed prior to 1869 and an inspector for the "Inclosure Commissioners" -- in this case Andrew Umphray of Reawick² (D8/394 book 5, 712-13, 762) -- was

¹The Drainage Act was a reaction to the potato blight and it was intended to help solve the Irish crisis by providing official funds for improving the agricultural land. The implementation of improvements under the act also provided employment for the destitute (Hunter, 1976, 58; Flinn, 1977, 432).

²During the 1860s Andrew Umphray improved his own estate, presumably

appointed to follow the progress. Previous to the passing of the Drainage Act, the Sumburgh estate agents had proposed to take a £2000 loan based on a security to be constituted over certain lands in Cunningsburgh and Dunrossness. This portion of the estate rental provided the security for the loan (D8/408 Mar. 1838 Proposal).

In 1874 Bruce again borrowed money from the SDIC. This time he borrowed the maximum amount of £2700 for the execution of improvements (D8/385). Bruce had several improvements underway at the time and the amount he proposed to expend on each included:

<u>Improvements</u>	<u>£</u>
Drainage	500
Roads	200
*Inclosing	1200
Clearing	300
Reclamation	500
	<u>£ 2700</u>

It is evident that enclosing constituted the single largest expense by far, with drainage and reclamation¹ vying for second place. At this time the Sumburgh and Symbister estates were in the process of establishing the mutual boundary between their estates in the South Mainland and some of this loan was to pay for the construction of fences and dykes (D8/333, 347, 385). In addition, it is obvious that Bruce was planning major estate improvements. In 1871 he presented several drainage and enclosure plans to Umphray for approval (D8/394 book 5,

Footnote 2 continued from previous page

using money borrowed from the same source. At Reawick, Sandsting he reclaimed 75 acres formerly covered by peat by using a system of pipes which led into mains and eventually emptied into an open ditch. This method was the same one used at Calbackness (see below). At Stump Farm (Sandsting) Umphray reclaimed 168 acres for the cultivation of crops and permanent grass (Evershed, 1874, 212).

¹Reclamation referred to the process of bringing land into cultivation, especially waste or unused land. A combination of enclosing, ploughing, draining, fertilizing, and cultivating new plants was used in reclaiming land (Adams, 1977, 99). This is briefly referred to in Rev. Clark's Diary on page 10.

p. 712-13) and in 1872 he drew up a lengthy list of new fences that were required on his property in Dunrossness (D8/384 List).

Assistance in drainage improvements was also necessary in other regions of Shetland where landowners were establishing farms. In the parish of Delting the Mouat Cameron estate contracted to have underground drainage pipes installed in the pastures of Calbackness (c. 1870). Once again the project was financed by the SDIC. Labour for the project was provided by Irish and Scots under this program. The pipes were laid diagonally across the fields in a downhill direction culminating in an open drain at the bottom of the slope. Remnants of these drains were still visible just prior to the oil development at Sullom Voe (personal communication - Frank Robertson, Shetland Islands' Council, Lerwick, Nov. 1977, Oct. 1978).

In many Shetland parishes -- particularly those possessing good arable and pasture land with landowners whose interests were directed towards agricultural improvements -- the implementation of improved field drainage resulted in improved cultivation, increased crop yields, a greater variety of crops, levelling of the fields, and changes in land use. Nevertheless, there were still areas in Shetland (e.g. Gossaburgh, Yell) where the open ditch system of field drainage continued to be used (Napier, 1884, 1258); even as late as 1920 basic open drains were still a common sight in some areas (McGillivray, 1920, 418).

Fertilisers

As late as 1920 McGillivray wrote, "Until recently artificial manures were practically unknown to crofters and are not very much used at the present time" (McGillivray, 1920, 419 - my emphasis). However, Shetlanders traditionally used various natural substances as fertiliser

such as limestone which was found in abundance in the major valleys of Tingwall, Weisdale and Whiteness. A few lairds such as Hay of Hayfield used lime as a fertiliser. According to Fenton (1978, 54) Hay drained and limed his Laxfirth farm during the 1840s. Nevertheless, though limestone was used as fertiliser, when found in sufficient quantities it was usually quarried and used as a mortar in construction. In some parishes shell marl was used for manure (NSA, XV, 65-Weisdale, Whiteness and Tingwall). After the production of kelp became unprofitable seaweed was often collected, left to rot or mixed with dung and spread on the rigs as compost (Evershed, 1874, 201; Tudor, 1883, 146; Spence v Zetland - CS46 35/12/1858). Offal represented another form of manure. Whales were caught only for their oil, while their bodies were generally left to rot. Only Hay and Bruce of Sumburgh thought to use the rotting carcasses for manure (Tudor, 1883, 415; Fenton, 1978, 549). However, the most common fertiliser was dung from the byre. After a long winter the supply was plentiful and it was generally mixed with "truck manure" or earth taken from the scattald (a process referred to as scalping), and spread over the inbye fields during the spring (Low (1774) 1879, 161-2). By the end of the century a few progressive farmers (e.g. W.G. Mouat, a tenant under lease from Thomas Edmondston of Bunes) were using a combination of these substances to fertilise their fields. At Springfield farm (Unst) for example, land was reclaimed by fertilising with a combination of natural turf, shell sand, byre manure or dissolved bones, and seaweed (Evershed, 1874, 222). To finance this as well as other agricultural improvements the Edmondston estate had borrowed money from an 'improvement company', possibly the SDIC (Edmondston).

Rotation or Cropping

"Such a thing as a rotation of crops has never once been thought

of, either by landlord or tenant. The want of enclosures, and the small size of farms, are adverse to such a practice" (NSA, XV, 121 - Aithsting and Sandsting). Even as late as 1889 the Shetland Times recorded that,

"...under the present conditions of things, none is practical...The crofts are, for the most part, so small that they cannot afford to lay any portion of them down to rye grass...the want of fences, and the promiscuous feeding of animals belonging to a whole township render, and has rendered, attempts at rotation abortive (ST 31 Aug. 1889).

In many instances antiquated agricultural customs prevailed and conflict arose when these ancient ways were at odds with agricultural improvements (SC12/6/145 1891 Petition. McQuern v. Thompson & others). Traditionally, animals were allowed to scavenge the fields after the harvest. As some of the landowners began to improve their farms by reorganizing and enclosing their land and planting new crops it was resented by others who were still working the land more communally because their stock no longer had access to the improvers' fenced land. As a result the old system often proved detrimental to agricultural improvements. However, some estates such as Sumburgh enforced the policy that livestock always had to be kept within enclosures (see below; D8/355). Wart Hill (Dunrossness), for example, was enclosed so that the surrounding farms could practice rotation and preserve their green crops from stock in winter (D8/384). By the 1860s Reawick tenants were growing rye and turnips and animals were no longer allowed to graze on the arable land in winter (Evershed, 1874, 211). In many cases, however, even after formal divisions of common land had taken place the ancient traditions of unrestricted grazing frequently prevailed on the scattalds. Effective grazing regulations came when issued by the Crofters Commission in 1913, although even as late as 1920 (McGilli-

vray, 418) and 1939 (O'Dell, 59) the practice of opening the hill gates to allow the "promiscuous" grazing of the animals on the town land was still an ongoing custom.

It appeared, therefore, that rotations were seldom followed and those that were in use were irregular in format. The most basic pattern consisted of oats and bere alternately on the manured infield followed by potatoes every four or five years, while oats were traditionally grown on the outfield (NSA, XV, 13 (Bressay); 28 (Fetlar & N. Yell); 43 (Unst); 118 (Sandsting and Aithsting)). However, there were cases where proper rotations were adopted. In Tingwall the New Statistical Account reported that, "An improved system of agriculture has been introduced and in many places a regular rotation of crops followed" (NSA, XV, 65). In year one turnips and potatoes were to be planted; year two, barley and grass seed; year three, hay; year four, pasture and year five, oats.

The Sumburgh estate case represents a clearly documented case of a landowner's attempt at introducing a regular system of cultivation. During the 1880s Bruce of Sumburgh compelled his tenants in Dunrossness to adopt a regular five-course rotation of crops against their will. In 1884 he circulated a notice proposing a change in land management and those wishing to differ with his proposal were to notify him (D8/355 To Tenants on the Sumburgh Estate 16 Dec. 1884). This was followed by a second notice in February 1886 which outlined the new rules of good husbandry to be enforced on the estate. First, the townlands were to be reorganized into farms of equal size and cultivated on a five-course shift. Second, livestock was to be contained within enclosures at all times, not left to graze at will. However, in the same year the crofters wrote, "We believe they [the improvements] cannot be carried out without great inconvenience and loss

to us..." (D8/355 S. Cunningsburgh crofters to Bruce Mar. 1886).

Crofters from Sandwick parish wrote, "We the undersigned names, wish to labour the ground on our old system, also feed promiscuously, and keep up our hill decks" (D8/355 Sandwick parish to Bruce Mar. 1886).

And North Cunningsburgh wrote,

"We, the undersigned tenants on your North Cunningsburgh estate, have read your proposals for a new method of working the land held by us. We are very sorry that we cannot agree to them. We are surrounded by tenants on other estates, and it is certain if we adopt the method you speak of we will be involved in endless strife with our neighbours. We hope you will not insist on our accepting the proposals " (D8/355 N. Cunningsburgh to Bruce Mar. 1886).

These statements were later followed by a letter from the local minister, Reverend George Clark, to Bruce supporting the crofters' stand.

"...it is impossible for us in the circumstances in which we are placed to work the land in the five course rotation which you insist upon. Our crofts as a rule are unsuited for this. They are also unfenced, and the cattle of the tenants of other proprietors are allowed to wander free in winter. What use could it be to sow rye grass in these circumstances" (D8/355 1889).

However, eviction or the termination of a lease often faced the crofter who did not comply with the estate regulations.

CHAPTER 14

EVICTIION AND EMIGRATION

Emigration was not a new phenomenon to Shetland. It had occurred on a limited scale since the eighteenth century.

"A series of bad crops and fishings about the year 1781 reduced the people so far below the poverty line that Nova Scotia emigration agents moving through the country were able to persuade numbers to emigrate" (Sutherland, 1967, Ch. IV, 2; also O'Dell, 1939, 194).

Nevertheless, by the early nineteenth century the population had increased more than is apparent from the figures. Over 3000 Shetlanders were in the British navy during the wars while others were in the merchant marine. In addition there was always a constant trickle of young men to the whaling (Kemp, 1800, 26; Shirreff, 1814, 25; O'Dell, 1933, 506-7; Sutherland, 1967, Ch. IV, 3; Wills, 1975, 428-35). Many of these men never returned to Shetland; they emigrated or remained at sea in the merchant navy. However, by the final decades of the century this trickle of people leaving the islands had developed into a constant flow. Emigration was the result of many factors including the depopulation policies of certain proprietors, the decline in the fishing, poor harvests, and finally, the improved transportation and communication with the rest of Britain.

During the early part of the nineteenth century Shetland was geographically isolated from the rest of Britain which meant that access to the islands was difficult and freight charges were therefore high. However, as the century progressed increased contact between Shetland and the British mainland, especially after the institution of a regular steam service in 1836 (Ch. 10), meant that the population increased much slower with emigration offsetting the natural increase. During the poor harvest years of the 1830s and

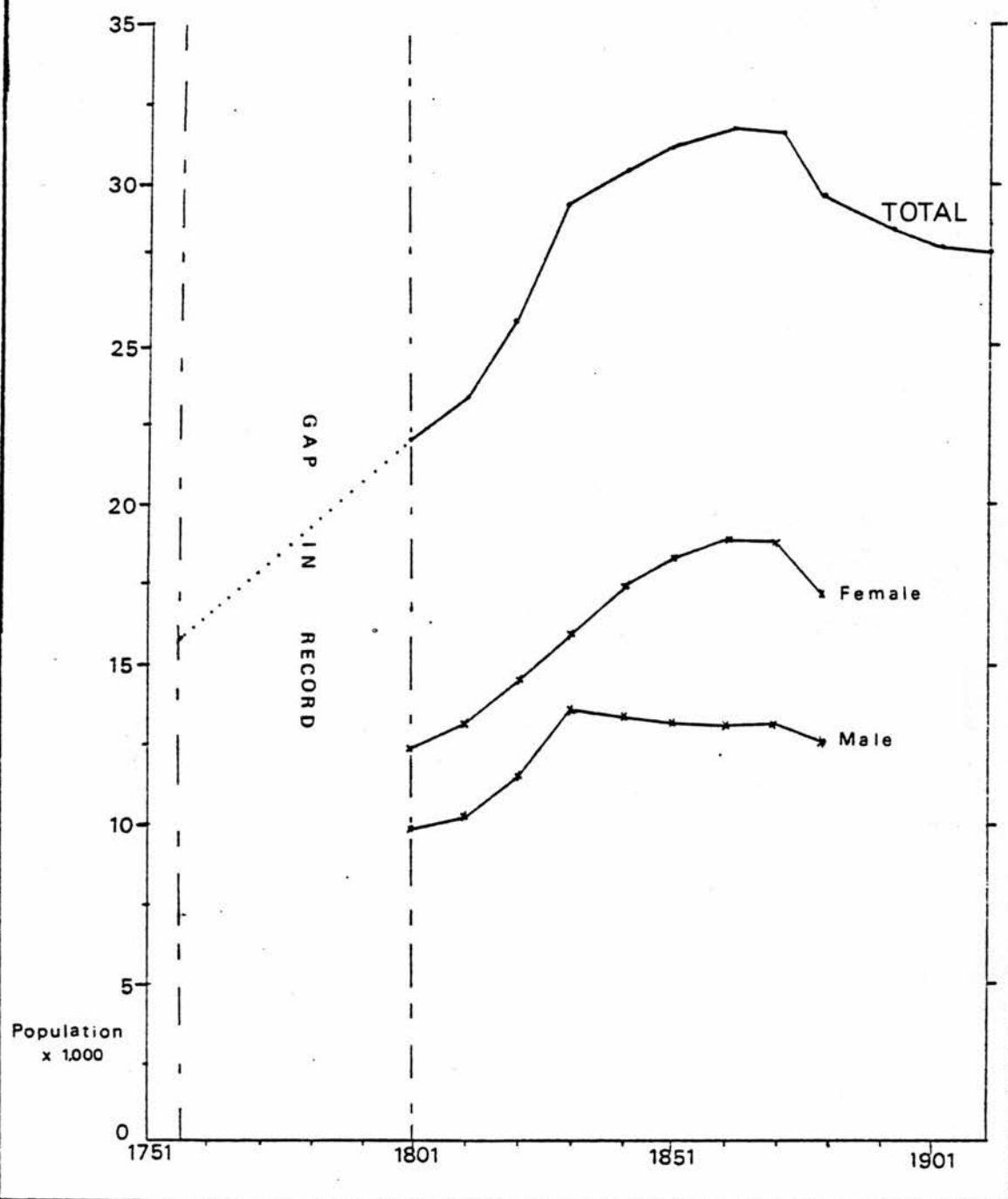
1840s there was an increase in the trickle of emigrants from Shetland, and from the 1840s onward Shetland experienced a rapid decline in its percentage increase in population (Fig. 40; Sutherland, 1967, Diag. 11A). By mid-century economic and social changes also began to contribute to population decline.

"Until the 1870s, the dual nature of the tenants' livelihood, being dependent upon both land and sea, was a leading factor in the stability of island society, which was now for the first time being seriously threatened by specialisation of economic activity. The separation of fishing and agriculture led to the temptation to evict tenants, and this naturally tended to occur just in areas where productive, as in Weisdale in the 1840s. In other areas tenants were commonly shifted round to poorer land when agricultural improvements were contemplated, but to evict them would be to deprive the fishing of its labour force and bring the whole economy crashing down...." (H. Smith, 1978, vii).

Although Shetland did not experience anywhere near the number of evictions or removals that the Scottish Highlands did, still there were areas where population disturbances were known (Fig. 41).

By 1851 the so-called "public burdens" for Shetland totalled £ 7500 out of an estimated £14,000 rental. "Clearly, landowning by mid-century was becoming an uneconomic proposition, and such conditions strongly favoured both evictions and agricultural improvement" (Smith, 1972, 224). Landowners were beginning to realize "...that sheep farm managers would pay far better rents than the tenants ever could. The large numbers of tenants, once so highly valued for the fishing, were now seen as a nuisance" (MacGregor, 1976, 28). As division actions were undertaken and sheep or cattle farms were established tenants saw their scattald taken away from them and henceforth used for grazing improved breeds of livestock. This meant that



FIG. 40 POPULATION TRENDS

Sources: Dr. Webster's 1755 Census
OSA; NSA; CensusesSHETLAND POPULATION STATISTICS

	1755...	1801	1811	1821	1831	1841	1851	1861	1871	1881	1891
Population	15210	22379	22915	26145	29392	30558	31044	31579	31371	29149	28241
Intercensal Incr./Decr. of Population		7169	536	3230	3247	1166	520	592	-6	-1903	-994

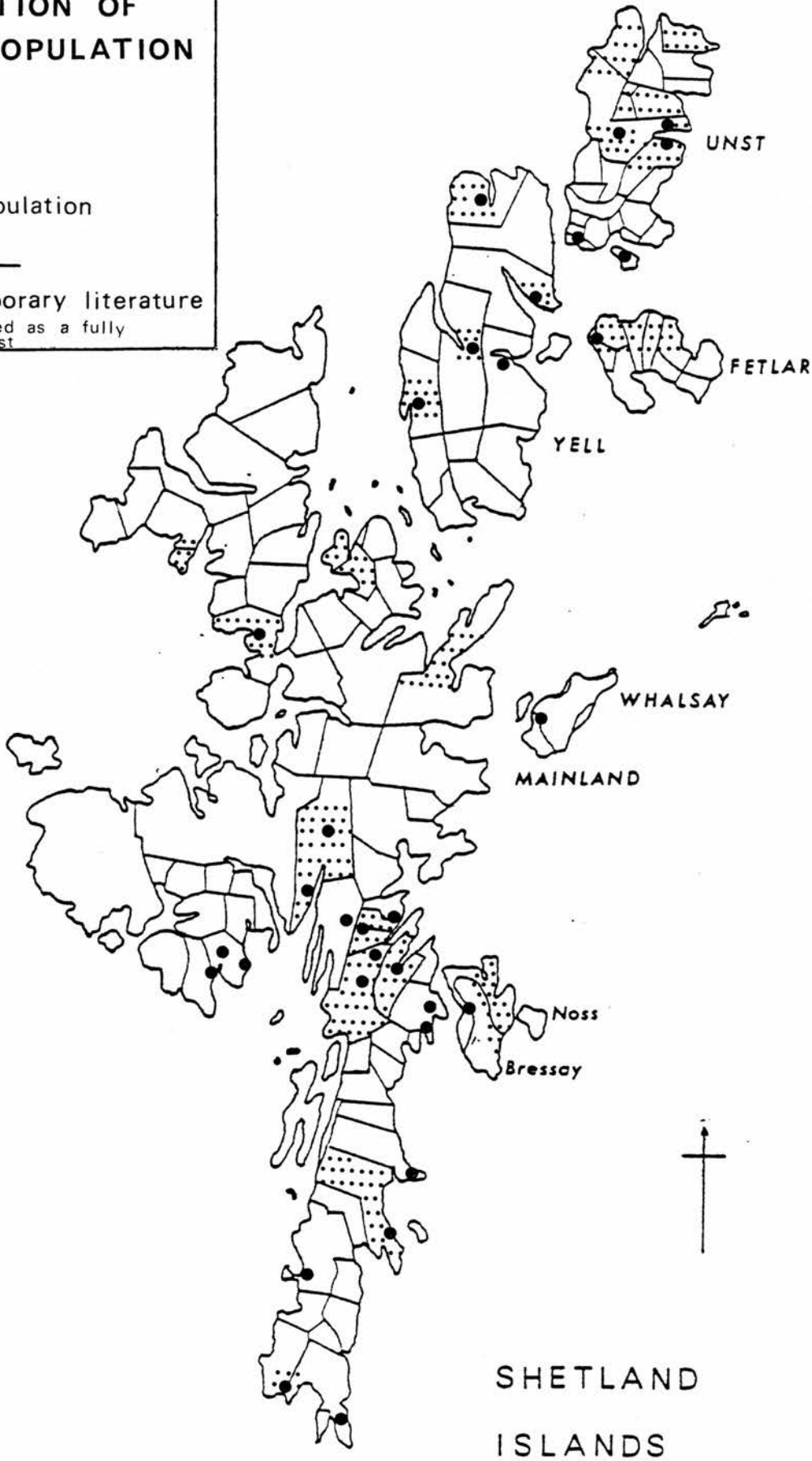
source: Kyd, James Gray. Scottish Population Statistics.
Edinburgh, 1975.

FIG. 41
REORGANIZATION OF
LAND AND POPULATION

-  Farms
-  Areas of population disturbance

source : contemporary literature

Note : Map not designed as a fully
comprehensive list



SHETLAND
ISLANDS

0 miles 10

— Scattald Boundaries

the tenants' livestock had to be removed from the scattald. The changing land proprietorship produced a surplus tenant population. Some tenants moved to other districts where fishing was still important; others were forcibly removed from their crofts (Nicholson, 1972, 75).

The numbers of evictions occurring in Shetland during this period are very difficult to ascertain from local records. Although the Lerwick Sheriff Court processes contain numerous documents known as the Summons of Removing, not all of these constituted evictions. There were several reasons why a landowner would submit a Summons of Removing to the Sheriff Court. Prior to the 1886 Act most tenants in Shetland held their crofts by virtue of a yearly, verbal lease and therefore they could be evicted with only forty days notice.¹ As a result the tenants were in a position "without any right or title save the pursuer's pleasure". Therefore, when the lease expired at Martinmas (11 November) the laird had the choice of renewing it or sending a Summons of Removing, the general format of which stated that,

"...the said Defenders ought in terms of the Act of Sederunt, dated 14 Dec. 1756, to be decerned to flit and remove themselves, their families, sub-tenants, cottars, and dependents with their goods and gear from all and whole the lands and others after mentioned occupied by them respectively..." (SC processes).

Notices were few in number prior to the mid-nineteenth century.

They were most often sent if the tenant was bankrupt, behind in rent, or illegally occupying a holding on the estate.

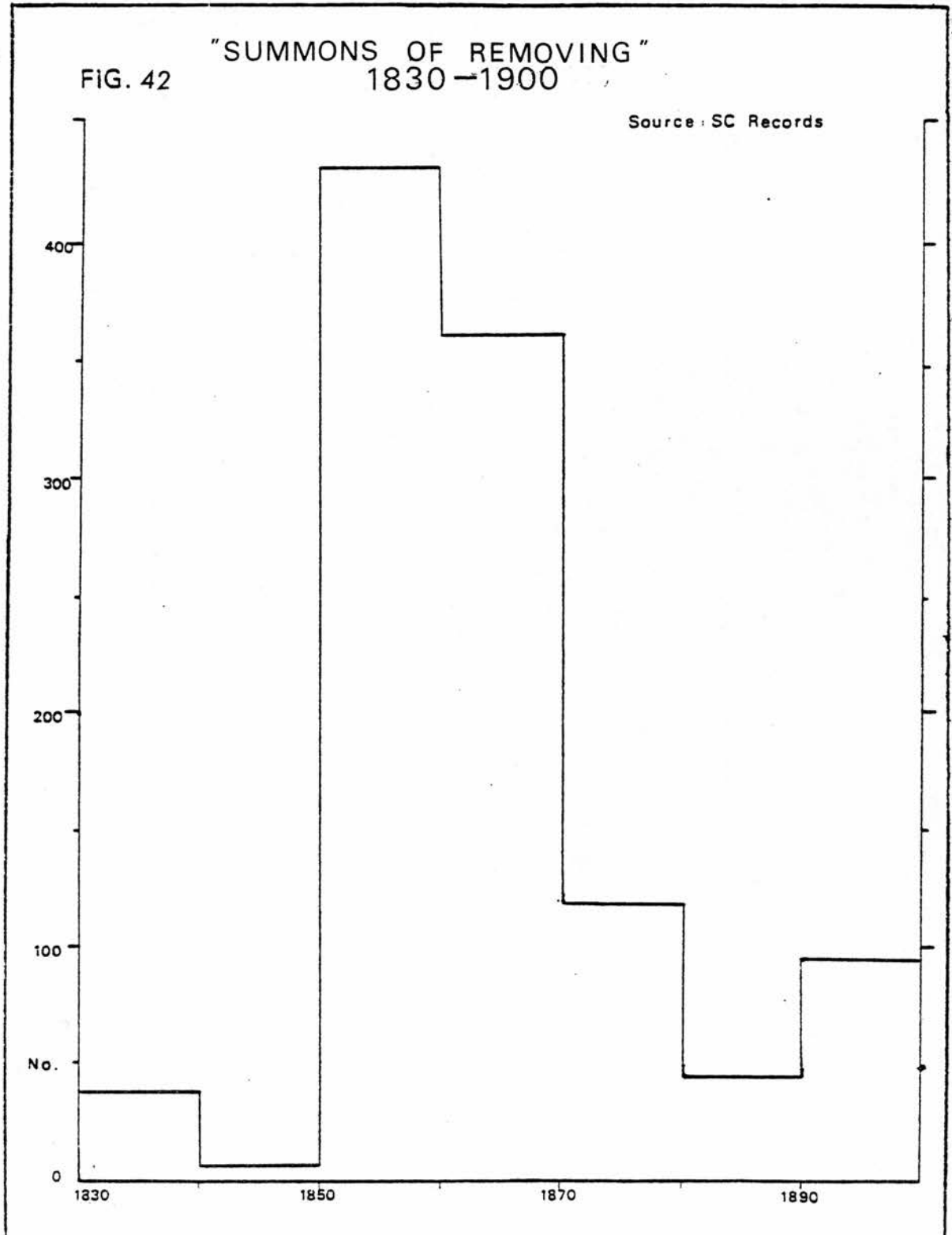
¹On some estates such as Bunness, Unst an attempt was made to induce tenants to take leases but in most cases they were emphatically refused (Napier, 1884, 1301). Tenants felt that such leases would limit their freedom of movement.

However, between 1850 and 1880 when the population of Shetland was at its peak the number of notices increased dramatically (Fig. 42). This coincided with the major period of land reorganization in Shetland. In all, about 1,000 notices of removal were issued during these years. While some resulted in the outright eviction of a tenant and his family, others involved their removal from one croft followed by resettlement on another. In both cases a notice of removal was issued to the tenant. If in the process of estate reorganization a landowner enclosed land for a sheep farm or increased the size of some crofts, a resettlement of the tenants was necessary. Each tenant involved in this reorganization received a notice of removal. Once the land was reallocated the tenants were in some cases warned again to relocate unless they agreed to pay a higher rent for their newly reorganized croft. Therefore, although the numbers of removal notices do not necessarily indicate evictions they are indicative of the changes occurring in Shetland society during this period as a result of farm reorganization. In total about 5,000 persons were directly affected by this process.

A pattern of eviction was established by Arthur Nicolson on his estate in Fetlar as early as 1828. In that year Nicolson cleared tenants from his share of the recently divided runrig lands and let the land to one tenant farmer. The Napier Commission reported that "...thirty houses (were) thrown to waste on Fetlar at the time Sir Arthur Nicolson made the sheep farm which he thought would pay him better" (Napier, 1884, 1240). In this case the tenants were fortunate to find refuge on the Dundas's share of the town (O'Dell, 1939, 31; Thomson, 1970, 172). Shortly after this, the northern section of the island slowly became depopulated causing a reorganization of the population within the island.

FIG. 42 "SUMMONS OF REMOVING"
1830-1900

Source: SC Records



There were, however, estates where tenants were still highly valued; these tended to be the ones involved in the fishing industry. In 1848 Arthur Gifford of Busta who owned most of Northmavine and some of Delting wrote,

"With few exceptions the tenants or more properly families upon this estate, have occupied the same place for generations, and when removals have taken place, it has commonly been only from one part of the estate to another" (D12/155/7 Extracts).

Therefore, although Summons of Removing were issued they were usually to inform the tenant of his relocation on another part of the estate. Northmavine, Walls and Sandness, and Aithsting and Sandsting were primarily cod and haaf fishing parishes and because the lairds required as many fishermen as possible few evictions were recorded in these areas. In addition the rough, boggy terrain of these parishes was difficult to exploit for sheep farms and therefore there were few clearances in favour of them (see p.260 above). As a result, the population of these three parishes continued to increase until 1871, unlike the rest of Shetland whose census year of maximum population had been ten years earlier. However, between 1871-1881 Northmavine, Walls and Aithsting parishes showed a dramatic decline in population (Census 1871, 1881). Therefore, it would appear that the depopulation of these parishes was due not to clearances for sheep farms but rather to declining fisheries and the corresponding lack of employment which followed in the 1880s.

However, in the parishes of Tingwall (including Weisdale and Whiteness), Dunrossness, Delting and Unst great changes in land proprietorship as a result of divisions were reflected in the population distribution. In each parish social changes were initiated as a result of legal and institutional processes of change and where these

occurred the districts lost part or substantial portions of their population. The parish of Tingwall, for example, reached its peak population in 1851, ten years earlier than the rest of the parishes and Shetland as a whole. During the next twenty years the population of the parish decreased by almost 400 persons. The valleys of Tingwall, Weisdale and Whiteness were cleared of their surplus tenants at the time of scattald divisions and the subsequent establishment of farms by such families as the Hays of Hayfield and Laxfirth and the Blacks of Kergord. Although folklore concluded that evictions commenced early in the century in these fertile valleys, little is known of where the majority of persons were cleared from or where they went. By 1850, however, the Hays were still in the process of reorganizing their estate. In that year approximately twenty-one families were evicted from the Veensgarth valley and several others from the farm at the head of Dales Voe west of Lerwick, in preparation for the establishment of sheep farms (Nicolson, 1972, 75). Some tenants emigrated while others found crofts elsewhere in Shetland. About the same time the Hays also removed tenants from the Laxfirth farm. A map by Robert Laing in 1878 (RHP 11212/1-2) illustrates the changing morphology of an area undergoing agricultural improvement. As divisions were carried out and the farm was enclosed, land previously planted in crops was used as pasture for stock. Pasture land was required for the new breeds of imported cattle and therefore tenants were evicted and the townlands were turned into pastures or seeded with fodder crops (see Ch. 12 above). As the arable land decreased in favour of pasture the population distribution changed. The map (RHP 11212/1-2) illustrates this transition; thirteen uninhabited houses are shown as well as an area labelled "Ploughed 25 years ago". Obviously, tenants were evicted or relocated on other

parts of the estate as the farm developed.

In 1848 David D. Black, a resident of Brechin, Scotland who had recently bought Kergord estate in Weisdale, wrote to James Greig, a solicitor in Lerwick with a proposal for the clearance and division of the area. "Meanwhile, I am clear for warning out the ten tenants ...and I am clear for pursuing an action of division of commonty..." (D6/223/5). In that same year a Summons of Division of Commonty was raised and from the time of instigation until its completion in 1860, Black proceeded to clear his allotments in the Weisdale valley of tenants supplanting them with sheep (Horne v Black - CS46 12/10/1860). Between 1850 and 1870 approximately thirty or forty families (or about 200 tenants) were cleared from parts of the Kergord estate in preparation for the stock farm which was to follow once the scattald division was completed (compare VR118 - 1850, with VR118 - 1870 for Weisdale; personal communication - George Morrison, Cova, Weisdale, 1977). Most emigrated to New Zealand, Australia or Canada or joined the merchant navy although there were a few families that found refuge on nearby land thanks to sympathetic individuals. Two such cases follow. In the Proof for the Division, one tenant related his personal experience with eviction.

"My Father having been removed from the lands occupied by him, in South Huxter and the lands having been set to [James] Garriock, by Garriock's permission we reside in the house which was formerly a byre, and we pay no rent" (Horne v Black - CS46 12/10/1860 Proof for D.D. Black Mar. 1857 p. 6).

One Hugh McKenzie (grandfather to J.W. Halcrow, Glover, Cunningsburgh) lived north and west of the voe at Weisdale and his family was evicted along with thirty-six others at about the same time by the landowner, D.D. Black. The McKenzie family walked over the hills and sheltered in a lambs' house until they received a house called North Lee in

the township of Aith from Mr. Anderton, the landlord of that estate. This was a poor croft and therefore the family later moved to Houser, also in Aith (personal communication - J.W. Halcrow, Glover, Cunningsburgh, Sept. 1978).

In some parishes the landlords actively encouraged emigration. In 1874, for example, when the towns of Garth, Quam, Corston and Neeflan on Garth Ness, Dunrossness (HU 3612) (part of the Quendale estate) were cleared for sheep, the estate helped to arrange assisted passages to New Zealand or Australia. Some of the twenty-seven evicted crofters took advantage of the assisted passage to the colonies; others resettled on estates in the same area or elsewhere in Shetland (personal communication - Tom Henderson, Lerwick Museum Curator, Aug. 1977; Henderson, 1978, Plates 2 & 3; Nicolson, 1972, 76, 90). Emigration was also encouraged by Bruce of Sumburgh on Fair Isle. In 1862 he cleared the island of 148 persons and shipped them off to New Brunswick, Canada (Nicolson, 1972, 90; D8/348). Bruce's motive for these clearances became evident ten years later when he wrote to Andrew Umphray (inspector for the SDIC) of his plans to enclose an experimental model stock farm on Fair Isle. In the letter Bruce suggested that Umphray dispense with the usual inspection of the land since he knew the property and report to the SDIC that the proposed loan would be well spent on the land. In this way Bruce could proceed with his plans immediately (D8/394 books pp. 712-13).

However, it doesn't appear that Bruce was in the habit of clearing his tenants for sheep. Later, while enclosing the South Cunningsburgh hill Bruce fenced in six crofts with the pasture. Reverend George Clark commented that, "These were all the evictions I can recall. Three of the tenants got crofts elsewhere on the same estate, the others were allowed to remain in their houses" (Clark, 4).

Bruce was a merchant laird who required his tenants to fish for him. In discussing the division of a town Bruce commented to the surveyor, Thomas Irvine, "I quite agree with you that five acres is too little for a farm but we have too many tenants and it would be hard to put any of them away" (D8/394 book 5 pp. 856-7 Bruce to T. Irvine Feb. 1872). Nevertheless, if tenants refused to pay their dayworks and poultry Bruce did not hesitate to threaten them with eviction (D8/394 book 6 p. 224).

During this period tenants often displayed their displeasure by selling their produce to yaggers or small merchants rather than to their landlord, or by making comments around the hearth which were passed down by word of mouth such as the incidents noted above. However, because the population of the islands was increasing and competition for crofts was great tenants did not want to risk eviction by outwardly defying the laird. This was not possible until the tenants had security of tenure which came only with the passing of the Crofters Act in 1886 (Ch. 15).

By the late 1860s famine struck the islands, especially the northern-most one of Unst. John Walker, factor for the Garth estate which was centred on the destitute areas of Delting, North Yell and Unst solved the situation by evicting tenants and creating sheep farms (Napier, 1884, 1240, 1416-19). The population of Delting decreased by over 300 persons between 1861 and 1881, while the population of Unst dropped by 800 persons during the same period. Wheeler (1964, 19) has clearly documented the Unst clearance in his text. Many of these cases involved the reorganization of tenants on estates rather than outright evictions (see below). Nevertheless, from 1841 to 1891 the townships of Unst lost part or substantial portions of their population.

Not all landowners, however, evicted their tenants to accommodate sheep. In his statement to the Napier Commission David Edmondston, lessee and factor of the Edmondston of Bunness estate in Unst explained how he reorganized his estate (Napier, 1884, 1301-11). As sheep farming became profitable Edmondston began to enclose scattald land for sheep and in most cases he left a portion of the hill nearest the townlands for the crofters' use. However, as the population of Shetland began to decrease in the late 1860s vacant crofts appeared on the estate and Edmondston's rent was reduced correspondingly. Therefore, in order to make a living from the estate he relocated families, concentrating them in specific towns while using the newly vacated towns and their corresponding scattalds for sheep farms. In the case of Ordale sheep farm families were removed from the south side of Balta Sound. Some were paid to move, others had their rents reduced as an incentive to vacate, while others went of their own accord. Some of these families migrated to other parts of the estate while others emigrated to mainland Britain, New Zealand, Australia or North America. For many young Shetlanders, the crofting life no longer held any attraction.

After 1861, the census year of maximum population, depopulation set in as emigration became widespread (Fig. 40). Migration away from Shetland was accompanied by internal migration to Lerwick as well as a general redistribution of population within the islands (see Thomson; 1970, 172 for an account of population redistribution in Fetlar). The inhabitants of Shetland were now more prosperous compared with the 1830s and 1840s due to the previous success of the fisheries, and this prosperity may have provided the necessary incentive to emigrate. In addition, emigration provided an outlet for

persons residing in areas undergoing great changes such as rising rents, farm consolidation and the introduction of sheep farming.

When compulsory schooling was introduced with the passing of the Education Act in 1872, an awareness of opportunities available in Britain and elsewhere emerged (Coull, 1967, 162). In the same year the Shetland Times came into existence linking Shetland with the outside world and thirteen years later a second weekly newspaper, the Shetland News was published. Emigration agents canvassed Shetland through the former in 1874-75 advertising assisted passages to New Zealand and Australia. Many must have been interested because during the decade 1871-1881 Shetland experienced the largest net emigration of the century (Sutherland, 1967, Diag. 11A, 21). Over 4,500 individuals left Shetland for the British mainland or the colonies during this ten year period and, "It has been calculated that more than 8,000 persons emigrated from Shetland during the twenty years 1861-1881, or about one quarter of the entire population" (Cluness, 1967, 93). The initial decade 1861-1871 marked the beginning of a downward trend in population that was to continue for the next one hundred years. Encouraged by fishing failures and the loss of stock and crops, the population began to decrease as the youth of Shetland travelled to Scotland or elsewhere in search of work. In his diary Reverend Clark wrote that he "...took notice of what elderly people often said about the scattering of their families. One or more of a household would be at sea, another or others in Canada, New Zealand or elsewhere abroad" (Clark, 53-4).

In 1885 the Shetland Times once again advertised for emigration to the colonies. The advertisement noted that from London, Liverpool and Glasgow, "...assisted passages to Canada will be granted to agricultural and common labourers, mechanics in common pursuits,

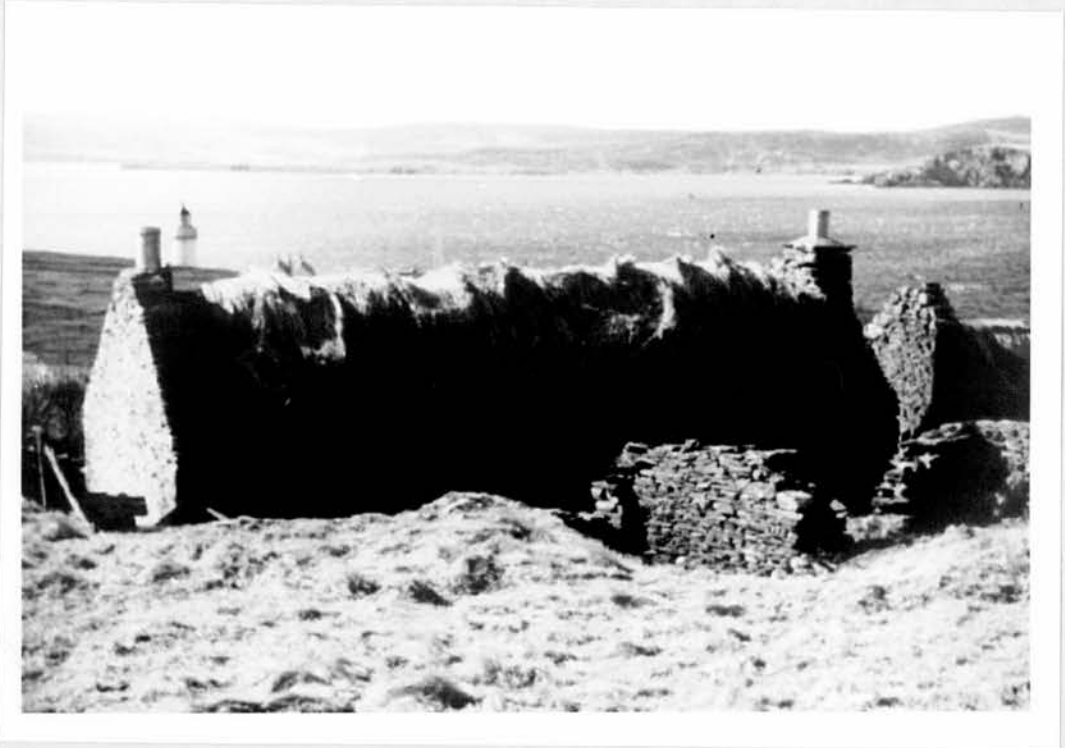


Plate 19 Derelict Croft, southwest coast of Bressay.

and female domestic servants, if found eligible, on application to John Manson, local agent, Lerwick "(ST 31 Jan. 1885). Later, influences on the rate of emigration came from the outside in the form of increased attractions of urban life and better educational, employment, and entertainment facilities found in the rest of Britain and the Commonwealth (Sutherland 1967).

During the late 1880s attempts were made to include Orkney and Shetland in a proposed crofter emigration scheme whose field of selection at the time only included the congested districts of the Western Highlands and Islands (AF51/18 Dundas suggests extension of proposed emigration scheme 1888). In 1888 a proposal was made by the parochial board of Unst to assist emigrants. In a letter dated December 17, William Smith, minister of Unst asked if the government would entertain an application from the parochial board, and on what terms, "... to advance £ 10 each to a limited number of approved single men to enable them to emigrate to Canada..." (AF51/13). The men were to be held responsible for the repayment of the money. In January 1888 it was noted that, "...a careful and reasonable scheme of emigration would, in many Highland and Island parishes, be most beneficial... applications as the one from Unst should be considered in connection with a General Emigration scheme" (AF51/13 13 Jan. 1888). The proposed area of settlement was the west coast of Canada. As a justification for including Orkney and Shetland in the scheme it was noted that "...large numbers of Orcadians have been settled in Vancouver for a generation, owing no doubt to the fact that many Orcadians used to enter the service of the Hudson's Bay Company" (AF51/18 1888). Therefore, the islanders appeared to be a population suited for colonization. Between 1887 and 1904 the province of British Columbia possessed a Crofter Commissioner (Alexander Begg) who acted as a special immigra-

tion commissioner. It was his task to arrange for the settlement of a large number of crofter-fishermen on Vancouver Island. However, the arrangements were never completed because the British Columbian government was not prepared to incur the liability of the scheme (NRA (Scot) 1427 Vancouver City Archives Papers of Alexander Begg, Crofter Commissioner for B.C., 1887-1904).

By 1886 the Crofters Act had established security of tenure for the tenants, however, regardless of the advantages to the crofters the population of Shetland continued to decrease. Shetland was overpopulated in relation to the available resources and therefore the immunity from eviction provided by the Act slowed down but did not halt the depopulation trend. "Also, from about 1880 began the breakdown of the subsistence economy when its keystone of home-grown food supplies was removed with the importing of prairie wheat. The cumulative result was the setting in motion of a tide of emigration from the islands..." (Coull, 1967, 162). During the 1890s the herring boom improved the economy of Shetland and reduced emigration for a time but by the end of the century the rate of emigration had once again increased.

CHAPTER 15

THE NAPIER COMMISSION AND THE CROFTERS' HOLDING ACT OF 1886

Crofters, landowners, merchants, and ministers were asked to give evidence before the Napier Commission which visited Shetland in 1883 to investigate the state of the crofters. Testimonies of numerous Shetlanders were heard and complaints varied from district to district. Major grievances voiced during the hearings included: the general increase in rents over the last thirty years regardless of improvements made to the crofts by the tenants; the lack of leases and the constant threat of eviction; poor housing conditions; the removal of the scattald from the tenants and the charge placed on some tenants for stock kept on any remaining scattald land.

Grievances varied in intensity between estates depending on the landlord's past treatment of his tenants. On Fetlar Sir Arthur Nicolson had turned several of the best crofts into parks for his personal use which resulted in hardship for the families involved (Clark, 45; Napier, 1884, 1240, Q.18680). As a result of the Garth estate policy of consolidation and reorganization many tenants on this estate were deprived of a great part of their hill pasture with no compensation (Clark, 44-5; O'Dell, 1939; Wills, 1968, 26; Napier, 1884, Q 19748). One fisherman crofter on the estate testified that he was "...in want of scathold. It was taken away, and they put £ 1 upon the rent; they took away the scathold, and never took off the £ 1..." (Napier, 1884, 1280). On parts of the estate such as North Yell whole towns were turned into sheep pastures and tenants removed. However, the hearings on these estates did not arouse as much public interest as those of Sumburgh. It appeared from the numerous testimonies that other landowners had not been as dictatorial as John Bruce of Sumburgh (Clark, 43; Napier, 1884, 1217-1222;

ST 21 July 1883).

In 1872 John Bruce, Jr. gained possession of the whole estate of Sumburgh under lease from his father, and in the same year he increased most of his tenants' rents to the point where in 1889 the Crofters Commission was able to reduce some of them from 28 to 40 percent (Clark, 2; D8/380, 453). All entries in the Sumburgh Crofter Book (D8/453) indicate that in 1872 a higher value was placed on each croft exclusive of the hill grazing which was in some cases reduced or totally removed from the tenants' use, as was the case in South Cunningsburgh (see pp. 300, 309 above). Increasing rents on the Sumburgh estate, as on several other estates, coincided with agricultural improvements such as runrig division and these may have partially been to blame for the increased rents (ST 31 Aug. 1889).

The report of the Napier Commission led to the Crofters' Holdings (Scotland) Act (49 & 50 Vic., cap. 29) 1886 which established security of tenure, compensation for improvements, a guaranteed fair rent, and the restoration of the scattald to the crofters. In addition, the act defined a crofter as,

"...any person who, at the passing of the Act is tenant of a holding...from year to year, who resides on his holding, the annual rent of which does not exceed thirty pounds in money, and which is situated in a crofting parish; and the successors of such person in the holding being his heirs or legatees."

A crofting parish was "...one in which there are crofters, and in which crofters have, within the last eighty years, had holdings, consisting of arable land, with a right of pasturage in common with one another" (Johnston, 1889, 1-2).

The Act was administered by the Crofters Commission which travelled throughout the crofting parishes in the Highlands and Islands listening to crofters' appeals against their lairds on mat-

ters concerning their rent, the use of the scattald, leases, etc. However, the Commission did not have the power to fix the number of animals kept by each heritor on the scattald; this had to wait until the early twentieth century when grazing committees were established to regulate grazing (O'Dell, 1939, 80; Wheeler, 1964, 20; Coull, 1968; MacGregor, 1976, 76).

Although the Act was passed in 1886 the Commissioners responsible for implementing it did not come to Shetland until 1889. Meanwhile the relationship between laird and tenant became strained. Landowners demanded rents in full because they were aware that the Commissioners had the power to cancel the payment of arrears, while the crofters, feeling that they had been paying high rents for years were inclined to pay only part of their old rent until a 'fair' one was set by the Crofters Commission. As the landowners expected, those tenants in arrears refused to pay, expecting their debts to be cancelled by the Commissioners. In a letter to Lady Nicolson dated October 1887 her factor expressed his fears regarding the effects of the Act on the collection of rents and arrears.

"...this will be a bad year for getting in rents for whither they could pay or not now with this cursed Crofters Act they are so puffed up with what they see in the papers about Skye that they really think they have no right to pay any rent at all and when I ask for arrears they say they must have something to live on..."
(Nicolson - 134 Arthurson to Nicolson 1887).

Nevertheless, there were landowners such as Bruce of Sumburgh who took strong measures to alleviate any monetary loss to himself during this period. He gave his tenants three options: first, they could pay him all their rent and arrears immediately; second, they could agree to pay their present rent until 1889; or finally, they could pay a slightly reduced rent for seven years (D8/453; Clark,

11-12). Regardless, Bruce intended to receive his rent from each tenant. In his opinion the proposed fixing of rents by a Commission was down right plunder and he intended to resist it to the very utmost. "As for 'fixity of tenure' the crofters are quite unfit for it. They need to be ruled" (Clark, 43). Consequently, when the Commissioners came to Shetland in 1889 to establish fair rents many Sumburgh tenants did not immediately speak up since they had agreed to Bruce's demands and they feared retaliation by him if they did. Because they fished for him for their livelihood they needed to remain in his favour. To those who did apply to the Crofters Commission for fair rents, Bruce sent a notice forbidding them to reap two consecutive white or grain crops from a field -- a common and often necessary practice (D8/453; Clark, 38; ST 31.8.89). Later, when the Commission did establish fair rents on the estate the rental suffered accordingly (see below).

It was said that,

"In Shetland there was little agitation in connection with the land question previous to the passing of the Crofters' Holdings Act of 1886...If their rents were raised or their hill pasture taken from them, they were powerless to resist...They were forced to fish to the landlord...in some places they had to sell their cattle to him, and deal with his shop. With no fixity of tenure there was nothing else for them" (Clark, 1).

As a result tenants would not have dared defy the landowners openly for fear of eviction. However, "Once the crofters got their 'freedom' they were not slow to take advantage of it" (Clark, 56) as illustrated first by the Hoswick whale case in 1888 (below) and later by the "Cunningsburgh Civil War" in 1890 (see p.300 above). In both cases the tenants spoke out against the Sumburgh estate in court and won. Encouraged by the establishment of their civil rights

tenants were gaining confidence and this overflowed into other aspects.

In 1888, for example, a large shoal of whales was driven ashore in Hoswick Bay, Sandwick by the local tenants and the oil was sold for £400. Conflict arose when Bruce claimed one third of the profit as was the custom (D8/344, 370). In this case the crofters refused to comply. As a result an action was raised in the Sheriff Court at the instance of Bruce and others and afterwards appealed in the Court of Session. During the proceedings a notice appeared in the Shetland Times reporting that money had been received from seven Sandwick men and two Dunrossness men now in America to help the captors of the Hoswick whales defend the action raised by the laird against them in the Court of Session (ST 31 Aug. 1889). Finally, a judgement was pronounced in the captors' favour. This action created a precedent. When the Sandwick tenants heard that they had won the case horns were sounded and fires were lit. An old man told Reverend Clark that such a thing would not have occurred in his youth.

"The people then would never have dared to resist the claim of the landlords far less kindle bon-fires and blow horns in Victory over them. In any case victory would have been in vain, for if the landlords had not got their share they would have just added something to the rents for it" (Clark, 57-8).

With the passing of the Act 1886 the relationship between laird and tenant altered dramatically. Most importantly, the landowners' powers over his tenants were greatly reduced. No longer could the landowners evict their tenants at will because they now possessed security of tenure through their leases with adjudicated rents. In addition, the crofters were generally better off financially due to the success of the fisheries and the establishment of new farms. Therefore they were able to take advantage of their situation and leave Shetland if they so desired (Smith, 1972, 276). Even as early

as 1884 "...the proprietors had many complaints of emigration and of the refusal of small tenants to take leases or remain steadily on one holding" (Wheeler, 1964, 20).

Although the 1886 Act established the tenants' civil rights it also "...perpetuated a system of uneconomic holdings, freezing the distribution of land in a position in which it has remained to this day" by the granting of virtual security of tenure (Nicolson, 1972, 80; also Wheeler, 1964, 20). In the end the Act did not solve the problems of agriculture in Shetland but merely fossilized them.

During the last years of the century some of the proprietors that had been involved in division and enclosure found themselves in increasing financial difficulties (SC12/8/1; SC12/10/1; MacGregor, 1976, 75). Some estates were sold (SC12/6/149 Bell 1893) while others went bankrupt and subsequently fell into the hands of creditors (Grant, 1907, 88, 150). Although the Sumburgh estate survived, its rental value for 1891 was only two thirds of its 1879 value as a direct consequence of the Commissioners' revaluation of its rent (D8/464; ST23 Nov. 1889).

In the twentieth century further legislation such as the Small-owners (Scotland) Act of 1911 and the Land Settlement (Scotland) Act of 1919 was passed which had the effect of reversing the process of enlargement and increasing the number of small holdings. As a result farms such as Veensgarth, West-a-firth, Ordale and Cliff which had been consolidated, enclosed and improved during the nineteenth century were subsequently broken up during the twentieth century into numerous smaller holdings, largely restoring the situation of one hundred years before (Nicolson, 1972, 81; Wheeler, 1964, Fig. 13b).

CONCLUSIONS

This thesis has primarily been a study of man's impact on his landscape. In order to understand the Shetland landscape as it exists today it was imperative that something of the changes already wrought by man in his physical habitat be understood. In the past, concern has primarily been focused on the sea-based aspects of the economy, while its complement -- the land-based agricultural system -- received little direct attention. Because the resources of Shetland are more evenly balanced between land and sea than either Faroe or Orkney it was therefore only fitting that a study of Shetland's agriculture be done to balance the understanding of these two aspects of the Shetland economy. As a result this study has attempted to analyze the historical geography of one aspect of agricultural change during the nineteenth century -- that of the process of scattald division. In many cases divisions represented the first of a series of agricultural changes, initially promoted for ideological reasons and later manifested in physical changes. Although some authors have refuted the idea that agricultural improvements ever reached the islands of Shetland, this was not the case. Improvements became as important an issue in Shetland as elsewhere in Scotland as the following quote suggests:

"...much more has been done and is now doing than will meet the eye of a stranger, or one not acquainted with the comparative state of things some thirty or forty years back; but considering the many and various disadvantages these islands labour under, rapid improvement is not to be looked for"
(D12/155/17 A. Gifford 1848).

Although change may not have been noticeable to an outside observer, to a Shetlander agrarian improvements were perceived as significant indeed.

At the end of the eighteenth century Shetland society was very

conservative and traditional. Agricultural improvements occurring elsewhere in Scotland had little impact on this remote community whose economy was based on the fishing industry which in turn was supplemented by subsistence agriculture. However, it was inevitable that the old farming practices could not survive in light of the development in Shetland of a market economy based on the private ownership of property. It was only a matter of time before the status of the scattalds was re-evaluated and the ancient form of landholding based on multiple ownership was destroyed. Since scattalds covered most of the Shetland landscape and formed an integral part of the subsistence economy, scattald division represented a significant legal reorganization of the land tenure system which in turn affected most other aspects of life in the islands. A very modest estimate places the amount of land undergoing division during this period at approximately thirty-five percent of the total area of Shetland, although at a glance, Figures 21 and 22 indicate that a great deal more land than this underwent radical changes in proprietorship at this time.

The Shetland lairds wishing to acquire the private ownership of the hills could divide the scattalds by one of two methods. The first involved the informal reorganization of scattald land by an extrajudicial process. By the nineteenth century land reform was becoming essential and the process of informally reorganizing the land as a forerunner to legal divisions offered an inexpensive, viable option. A combination of estate consolidation and ad hoc enclosure of scattald land was employed by the landowners to allocate the common lands. During the late eighteenth and early nineteenth centuries various methods of increasing land production were attempted with varying degrees of success. As a result most scattalds had been undergoing changes in size and shape for some time.

These early land reforms including enclosures and excambions and sales of land were pursued with the purpose of increasing, improving, and consolidating estates and during the early years these methods of clarifying and resolving the proprietorship of the scattalds served the lairds well. By the mid-nineteenth century, however, the landowners became impatient to organize their estate to meet the challenges offered by the improved socio-economic conditions in Shetland. Legal division offered a safe, sure process of land allocation, albeit at considerable expense. The landowners considered that legal action was essential for dealing with the increasing frequency of land disputes. Some landowners desired the dissolution of the archaic and cumbersome system of communal proprietorship which lent itself to abuse and inhibited agrarian improvement and estate consolidation. At the same time other landowners began to view the scattalds as an area of potential agricultural value in light of improved transportation and communication which made Shetland produce accessible to southern markets. As their expectations of the potential of the scattalds increased so did the lairds' expenditure on the initial step towards agricultural improvement -- that of scattald divisions. Landowners who now perceived the potential of the vast expanse of hill land for grazing purposes rushed to legally establish private ownership of the scattalds. The legal division procedure used varied according to the objectives of the proprietors, the severity of the disputes and the value of the scattald. Nevertheless, there were some landowners who saw no need to divide because their land simply did not warrant the expense. In the end a few scattalds were successfully divided by the local Sheriff Court at minimum expense, while most required the more costly procedure of the Court of Session, Edinburgh in order to resolve their complex ownership patterns.

According to various sources the first legal division was completed by the Sheriff Court in 1797 while the Court of Session processed the final division in Shetland in 1911. During this period no less than seventy-one percent of the scattalds were divided. Although divisions occurred throughout the one hundred and fourteen year period the majority were begun during the twenty years between 1860 and 1880. The major period of change in Shetland coincided with the Golden Age of Agriculture in the rest of Britain. However, by 1879 with the economy of the country suffering the effects of a worldwide depression improvements continued but on a smaller scale. By the end of the decade most of Shetland had been divided and mapped through the efforts of a small group of professionals and improvers and together their influence brought about the modernization of the Shetland landscape.

Divisions, however, represented only the first of a series of agricultural changes. Once private property was established physical manifestations on the landscape in the form of agricultural improvements often followed. By mid century traditional forms of land proprietorship were becoming uneconomic and such conditions strongly favoured an alteration in agrarian methods in order to improve the productivity of Shetland estates. Divisions represented a preliminary step to ending the old agricultural order. As divisions were completed and stock farms were established the breakdown of the subsistence economy followed and the traditions of a husbandry which had dictated the agricultural cycle for centuries were destroyed. Improvements such as enclosed fields, drained mosses, and changed crops and rotations were initiated by lairds interested in improving the productivity of their estates. In Scotland practically all of the earliest improvers and innovators were landowners but in Shetland

both the merchant and landowning classes possessed the crucial elements of capital and influence necessary to attempt the transformation of farming from a subsistence state to a commercial one. In the end a complete geographical reorganization of the land tenure system was accomplished which in turn affected the social and economic order of Shetland.

Commercial livestock production expanded under the influence of agricultural improvements in the nineteenth century. Landowners shifted the emphasis in agriculture from subsistence to livestock production in response to the demand for their products. The importance of agriculture was becoming evident by the emphasis placed on improving livestock farming. Between 1850 and 1874 an upward trend in meat prices encouraged a gradual increase in livestock numbers and this was complemented by an expansion of the acreage devoted to fodder crops. The landowners' changing attitudes towards agricultural products and their role as an export commodity are reflected in the measurable changes that were occurring in the numbers of sheep and cattle. Initially, cattle were bred for export but when market conditions began to decline in the 1870s the lairds turned some of their newly-divided scattalds into sheep parks. The Shetland landscape was inherently more suited to the breeding of sheep than cattle. Agricultural records show a steep rise in the numbers of sheep during the latter half of the nineteenth century as commercial livestock farms and later crofts changed their emphasis from cattle to sheep. The nineteenth century development of stock farming and land resources became manifested in the export trade and by virtue of these changes the economy of Shetland was becoming diversified. Between 1866 and 1900 the number of sheep in Shetland doubled and as the century drew to a close sheep continued to increase in importance.

Simultaneously, there was a decrease in the area of cultivated land combined with an increase in the area of pasture land generally attributed to the change from subsistence to stock-oriented agriculture. The emphasis in farming changed from producing subsistence crops such as grains, potatoes, and some cabbage and grass, to stock farming where the arable land was sown mainly with fodder and root crops necessary for supporting the stock through the winter. Therefore, by the beginning of the twentieth century the agricultural side of the Shetland economy was based on stock rearing while the cultivation of crops played a secondary role.

With a changing agricultural system Shetland could no longer support the same population on the land as in the days of subsistence farming. As divisions were accomplished and stock farms were established the scattald was often removed from the tenants' use. In some areas where landowners had established sheep farms great changes in the population distribution resulted. Some of the tenant population moved to other parts of the estate or other districts; others were forcibly removed from their crofts. Although evictions were few in comparison to north-west Scotland, settlement disruption and reorganization was considerable. Like the Highland clearances, population disturbances in Shetland were symptomatic of the inability of the old economy to adapt to a changing world. In areas undergoing great changes emigration provided an outlet for the population. Emigration was the result of many factors including the depopulation policies of some lairds, the decline in the fishing, poor harvests and finally, improved transportation and communication links with the rest of Britain.

As this study has attempted to illustrate, agriculture in Shetland underwent a surprising amount of improvement and change during

the first eighty-six years of the nineteenth century. However, during the final years of the century legislation once again was to change the face of the Shetland landscape. In 1886 the Crofters' Holdings (Scotland) Act was passed and although it was initially established to protect the tenants' civil rights it also perpetuated a system of uneconomic holdings and froze the distribution of land in a position where it has remained to this day. This in effect fossilized the crofting way of life and brought many of the agricultural changes initiated during the past years to a halt. The historical and geographical considerations of the period since 1886 and the effects that consecutive crofting acts had on agriculture in Shetland raise themes and problems that could form the basis for another study. During the twentieth century subsequent legislation was passed which had the effect of reversing the process of enlargement and increasing the number of small holdings, largely restoring the situation of one hundred years before. Simultaneously, other economic factors such as the herring fishing were gaining in importance and by 1900 Shetland was once again predominantly a marine community while agriculture diminished in importance. Therefore, in the end the changes in Shetland seemed to be more partial than in the Scottish Lowlands for while the arable ceased in most cases to be held and cultivated jointly, many of the hill grazings continued to be used in common or reverted back to common use upon being restored to the crofters. With over ninety-three scattallds still in existence (1969) the landscape appeared destined to continue regardless of man's continuing intervention.

SELECTED BIBLIOGRAPHY

I PRINTED SOURCES

Parliamentary and Official Papers

- 1850 Reports of the Edinburgh Section of the Central Board for the Relief of Destitution in the Highlands and Islands of Scotland, 2nd report, William Blackwood & Sons, Edinburgh.
- 1872 Report of the Commissioners appointed to enquire into the Truck System together with Minutes of Evidence, Vol. 2, Minutes of Evidence, Edinburgh.
- 1874 Owners of Lands and Heritages 1872-73 (Scotland), Return.
- 1884 Report of Her Majesty's Commissioners appointed to enquire into the condition of the crofters and cottars in the Highlands and Islands of Scotland; Evidence. Napier Commission report and evidence.
- 1884-85 Crofters' Holding (Scotland) Bill, (Parliamentary Papers I, II)

Books, Articles and Theses 1. Specifically Dealing with Shetland

- Benjie (pseud.) 1870 Benjie's Tour in Shetland, in the Summer of 1870. Edinburgh.
- Brand J. 1883 (reprinted from original edition of 1701) A Brief Description of Orkney, Zetland, Pightland Firth and Caithness. William Brown, Edinburgh.
- Catton J.I. 1838 The History and Description of the Shetland Islands. Wainfleet.
- Cluness A.T. ed. 1967 The Shetland Book. Shetland Times, Lerwick.
- Coull J.R. 1964 "Walls: A Shetland Crofting Parish." Scottish Geographical Magazine 80.3, 135-49.
- Coull J.R. 1967 "A Comparison of Demographic Trends in the Faroe and Shetland Islands." Transactions of the Institute of British Geographers 41, 159-66.
- Cowie R. 1874 Shetland: Descriptive and Historical. John Menzies & Co., Edinburgh & Glasgow.
- Donaldson G. 1978 Northwards by Sea. 2nd ed. Paul Harris, Edinburgh.
- Douglas C. & Douglas A. 1913 The Shetland Pony. William Black and Sons, Edinburgh and London.
- Edmondston A. 1809 A View of the Ancient and Present State of the Zetland Islands. 2 vols. John Ballantyne & Co., Edinburgh.

- Edmondston A. 1820 Observations on the Nature and Extent of the Cod Fishery Carried on off the Coasts of the Shetland and Orkney Islands. Edinburgh.
- Edmondston L. 1841 "General Observations on the County of Shetland." Statistical Account of the Shetland Islands. Edinburgh & London.
- Edmondston L. 1866 An Etymological Glossary of Shetland and Orkney Dialect. Edinburgh.
- Evershed H. 1874 "On the Agriculture of the Islands of Shetland." Transactions of the Highland and Agricultural Society of Scotland. William Black & Sons, Edinburgh, 4th series, 6, 187-228.
- Evershed H. 1877 "The Agriculture of Shetland." Farmer's Monthly Journal, April, May, August.
- Evershed H. 1884 "The Farming of Shetland." Forestry, 161-73.
- Fea J. 1775 (reprinted 1884) The Present State of the Orkney Islands considered...with an Appendix Entitled "An Account of the New Method of Fishing Practised on the Coasts of Shetland, with Observations. Edinburgh.
- Fea J. 1787 Considerations of the Fisheries in the Scotch Islands. London.
- Fenton A. 1978 The Northern Isles of Scotland. John Donald, Edinburgh.
- Fraser A. 1949 "Farming in the Shetlands." Agriculture, 375-8.
- Gifford T. 1879 (reprinted 1976, Thuleprint, Sandwick) An Historical Description of the Zetland Islands 1733. Thomas George Stevenson, Edinburgh.
- Goodlad C.A. 1971 Shetland Fishing Saga. Shetland Times, Lerwick.
- Goudie G. 1886 "On the Horizontal Watermills of Shetland." Proceedings of the Society of Antiquaries of Scotland 20, 257-97.
- Goudie G. ed. 1889 Diary of the Reverend John Mill, Minister in Shetland, 1740-1803. Scottish History Society, Edinburgh.
- Goudie G. 1904 The Celtic and Scandinavian Antiquities of Shetland. William Blackwood & Sons, Edinburgh & London.
- Graham J. 1968 "Andrew D. Mathewson." New Shetlander 86, 17-18.
- Grant F.J. 1893 The County Families of the Shetland Islands. Lerwick.
- Grant F.J. 1907 Zetland Family Histories. T. & J. Manson, Lerwick.
- Greig P.W. 1892 Annals of a Shetland Parish; Delting. C. & A. Sandison, Lerwick.

- Henderson T. 1978 Shetland from old photographs. Shetland Library & Museum. Shetland Times, Lerwick.
- Henderson T. 1969 "The Yoal and the Sixern." New Shetlander 89.
- Hibbert S. 1822 (reprinted 1931 T. & J. Manson, Lerwick) A Description of the Shetland Islands Comprising an Account of their Scenery, Antiquities and Superstitions. Archibald Constable, Edinburgh.
- Howie A. 1945 "Agriculture in Shetland." Scottish Journal of Agriculture 87-94.
- Jakobsen J. 1897 The Dialect and Place-Names of Shetland. Lerwick
- Jakobsen J. 1928-32 An Etymological Dictionary of the Norn Language in Shetland. 2 vols. London & Copenhagen.
- Jakobsen J. 1936 The Place Names of Shetland. London & Copenhagen.
- Jamieson J. 1948 "Crofting - Then and Now." New Shetlander 8, 18-20.
- Jamieson P. 1971 "The Press Gang in Shetland." in T.A. Robertson & J.J. Graham, eds. The Shetland Folk Book 5, Shetland Times, Lerwick.
- Johnston A.W. 1910 "The Scattald Marches of Unst in 1771." Old-Lore Miscellany of the Viking Club 3, 4, 5.
- Kemp J. 1800 Observations on the Islands of Shetland and Their Inhabitants. Edinburgh.
- Lennox W. 1893 A Pamphlet Addressed to the Crofters, Cottars, Squatters, and Small Tenant-Farmers of Shetland. Lerwick
- Linklater E. 1965 Orkney and Shetland: An Historical, Geographical, Social, and Scenic Survey. Robert Hale, London.
- Livingstone W.P. 1947 Shetland and the Shetlanders. Thomas Nelson & Sons, London & Edinburgh.
- Low G. 1879 A Tour Through the Islands of Orkney and Shetland in 1774. William Peace & Son, Kirkwall.
- MacGillivray J.W. 1920 "Agriculture in Shetland." Scottish Journal of Agriculture 3, 414-29.
- MacGregor K. 1976 "The Division of the Scattald in Shetland with Special Reference to South Delting." Unpubl. Diploma thesis, University of Edinburgh.
- Mackenzie J. 1836 The General Grievances and Oppressions of the Isles of Orkney and Shetland. Edinburgh.
- MacMillan D.S. 1969 "Captain Henry Kater's Shetland Journal, 1818." New Shetlander 79 & 80, Lerwick.

- Morrison I.A. 1973 "Jarlshof. The Marine Environment of a Viking Settlement." International Journal of Nautical Archaeology 2.
- Neill P. 1806 A Tour Through Some of the Islands of Orkney and Shetland. Edinburgh.
- Nelson G.M. 1965 The Story of Tingwall Kirk. Lerwick.
- Nelson G.M. 1976 "Some Crofting Customs." in J.J. Graham to J. Tait, eds. Shetland Folk Book 6, 46-48.
- New Statistical Account of Scotland 1845 Vol. XV, William Blackwood & Sons, Edinburgh.
- Nicolson J.R. 1972 Shetland. David & Charles, Newton Abbot.
- Nicolson J.R. 1975 Shetland and Oil. William Luscomb, London.
- O'Dell A.C. 1933 "The Urbanisation of the Shetland Islands," Geographical Journal, June.
- O'Dell A.C. 1939 The Historical Geography of the Shetland Islands. T. & J. Manson, Lerwick.
- Ploven C. 1894 Reminiscences of a Voyage to Shetland, Orkney and Scotland in the Summer of 1839. T. & J. Manson, Lerwick.
- Renwanz M. 1981 "Conflict, Consciousness and Economy in a Shetland Island District: 1870-1978." Forthcoming Ph.D. thesis, Stanford University.
- Robertson T. 1971 "A List of Words Relating to Land and Agriculture." in T.A. Robertson & J.J. Graham eds. Shetland Folk Book 5, Shetland Times, Lerwick.
- Sandison C. 1968 Unst - My Island Home and its Story. Lerwick.
- Sandison W. 1934 A Shetland Merchant's Daybook in 1762. Lerwick.
- Seim E. 1964 "Shetland Food in Former Times." in T.A. Robertson & J.J. Graham eds. Shetland Folk Book 4, Shetland Times, Lerwick.
- Senior W.H. and Swan W.B. 1972 The Report of a Survey of Agriculture in Caithness, Orkney and Shetland. Highland Development Board.
- Shirreff J. 1814 A General View of the Agriculture of the Orkney and Shetland Islands. Archibald Constable, Edinburgh.
- Sibbald R. 1711 (reprinted 1845) Description of the Islands of Orkney and Shetland. Edinburgh.
- Sinclair C. 1840 Shetland and the Shetlanders. William Whyte, Edinburgh.

- Sinclair Sir J. ed. 1925 Statistical Account of Shetland 1791-1799.
T. & J. Manson, Lerwick.
- Skirving R.S. 1874 "On the Agriculture of the Islands of Shetland."
Transactions of the Highland and Agricultural Society of Scot-
land. William Black & Sons, Edinburgh, 4th series, 6, 229-63.
- Small A. 1969 "Shetland: Location the Key to Historical Geography."
Scottish Geographical Magazine 85.3, 155-61.
- Smith H.D. 1972 "The Historical Geography of Trade in the Shetland
Islands, 1550-1914." Unpubl. Ph.D. thesis, Aberdeen University.
- Smith H.D. 1978 Introduction to: Second Report of the Commissioners
appointed to inquire into the Truck System 1872. Thuleprint
reprint, Sandwick.
- Smith M. 1964 "Shetland Croft Houses and their Equipment." in T.A.
Robertson & J.J. Graham eds. Shetland Folk Book 4, Shetland
Times, Lerwick.
- Sutherland M. 1967 "Shetland Population - Past, Present and Future."
Unpubl. M.A. dissertation, University of Edinburgh.
- Tait E.S. Reid 1929 "John Bruce of Symbister's Map of Shetland."
Scottish Geographical Magazine May.
- Tait E.S. Reid 1951 "A Shetland Steading." in E.S.R. Tait ed.
Shetland Folk Book 2, Shetland Times, Lerwick.
- Tait E.S. Reid 1957 "Some Notes on the Harvest and Harvest Customs
in Bygone Days." in T.A. Robertson & J.J. Graham eds. Shet-
land Folk Book 3, Shetland Times, Lerwick.
- Tait E.S. Reid 1964 "Press Gang Stories." in T.A. Robertson & J.J.
Graham eds. Shetland Folk Book 4, Shetland Times, Lerwick.
- Tait R.W. 1947 "Andrew Dishington Mathewson." New Shetlander
3 (May), 12-13.
- Taylor H.P. 1948 A Shetland Parish Doctor. Lerwick.
- Thomson W.P. 1970 "Funzie, Fetlar: A Shetland Run-Rig Township
in the Nineteenth Century." Scottish Geographical Magazine
86. 3, 170-85.
- Tudor J.R. 1883 The Orkneys and Shetland: Their Past and Present
State. Edward Stanford, London.
- Wheeler P.T. & members of the Geographical Field Group, 1964 "The
Island of Unst." Unpubl. study, Nottingham University.
- Willcock R. 1897 A Shetland Minister of the Eighteenth Century.
T. & J. Manson, Lerwick.
- Wills J. 1968 "Bressay: The Historical Geography, Present State
and Future Prospects of a Shetland Island." Unpubl. M.A.
dissertation, University of Edinburgh.

- Wills J. 1971 "A Shetland Estate in the Eighteenth Century." New Shetlander, winter.
- Wills J. 1975 "Of Laird and Tenant." Unpubl. Ph.D. thesis, University of Edinburgh.
- Wills J. 1978 The Lands of Garth a Short History of Calbackness. Shetland Times, Lerwick.

Books, Articles and Theses 2. General

- Adams G. 1813 Geometrical and Graphical Essays. 4th ed., London.
- Adams I.H. 1967 "The Division of the Commonty in Scotland." Unpubl. Ph.D. thesis, University of Edinburgh.
- Adams I.H. 1968 "The Land Surveyor and his Influence on the Scottish Landscape." Scottish Geographical Magazine 84, 248-55.
- Adams I.H. 1971a Directory of Former Scottish Commonties. Scottish Record Society, Edinburgh.
- Adams I.H. 1971b "Division of the Commonty of Hassendean 1761-3." Stair Society Miscellany, Edinburgh, 181-92.
- Adams I.H. 1971c The Mapping of a Scottish Estate. Department of Educational Studies, University of Edinburgh.
- Adams I.H. 1973 "The Legal Geography of Scotland's Common Lands." Revue de l'Institut de Sociologie, University of Brussels, 259-332.
- Adams I.H. 1974 Descriptive List of Plans in the Scottish Record Office, HMSO, 3, Edinburgh.
- Adams I.H. 1975a "Economic Process and the Scottish Land Surveyor." Imago Mundi 27, 13-18.
- Adams I.H. 1975b "George Taylor, a Surveyor o' Pairts." Imago Mundi 27, 55-64.
- Adams I.H. 1976 "The Division of Dunbar Common." Transactions of the East Lothian Antiquarian & Field Naturalists' Society 15, 75-89.
- Adams I.H. 1977 Agrarian Landscape Terms: A Glossary for Historical Geography. Institute of British Geographers, London.
- Adams I.H. 1980 Papers on Peter May -- Land Surveyor. Forthcoming.
- Bannister A. & Raymond S. 1977 Surveying 4th ed., Pitman, London.
- Barclay H. 1855 A Digest of the Law of Scotland. 2nd ed., Murray & Gibb, Edinburgh.

- Barry G. 1808 History of the Orkney Islands, 2nd ed., Edinburgh.
- Bell G.J. 1829 Principles of the Law of Scotland. Edinburgh.
- Bell R. 1826 A Dictionary of the Law of Scotland. 3rd ed., 2 vols., Edinburgh.
- Beresford M.W. 1948 "Ridge and Furrow in the Open Field." Economic History Review, 2nd series, 1.1, 34-35.
- Borchgrevink A. 1970 "Peat Spades in Western Norway." in A. Gailey & A. Fenton, eds., The Spade in Northern and Atlantic Europe. Ulster Folk Museum and the Institute of Irish Studies, Studies, Queen's University, Belfast.
- Brøgger A.W. 1929 Ancient Emigrants: A History of the Norse Settlements in Scotland. Clarendon Press, Oxford.
- Burnett J. 1969 A History of the Cost of Living. Penguin Books Ltd., London.
- Caird J.B. 1964 "The Making of the Scottish Rural Landscape." Scottish Geographical Magazine 80, 72-80.
- Chambers J.D. and Mingay G.E. 1966 The Agricultural Revolution, 1750-1880. London.
- Channon G. 1969 "The Aberdeenshire Beef Trade With London: A Study in Steamship and Railway Competition." Transport History 2, 1-24.
- Clow A. and Clow N. 1947 "The Natural and Economic History of Kelp." Annals of Science 5.4, 297-316.
- Coull J.R. 1968 "Crofters' Common Grazings in Scotland." Agricultural History Review 16, 142-54.
- Darling F.F. 1955 West Highland Survey. Oxford University Press.
- Dodgshon R.A. 1975a "Towards an Understanding and Definition of Runrig: the evidence for Roxburgh and Berwickshire." Transactions of the Institute of British Geographers 64, 15-33.
- Dodgshon R.A. 1975b "Runrig and the Communal Origins of Property in Land." Juridical Review part 3, 189-208.
- Dodgshon R.A. 1975c "The Landholding Foundations of the Open-Field System." Past and Present, 3-29.
- Dodgshon R.A. 1979 "Landscape in Need of Improvement." Geographical Magazine April, 479-85.

- Erskine J. 1895 Principles of the Law of Scotland. 19th ed., Edinburgh.
- Fenton A. 1962-3 "Early and Traditional Cultivating Implements in Scotland." Proceedings of the Society of Antiquaries of Scotland 96, 264-317.
- Fenton A. 1970 "Paring and Burning and the Cutting of Turf and Peat in Scotland." in A. Gailey and A. Fenton, eds. The Spade in Northern and Atlantic Europe. Ulster Field Museum and the Institute of Irish Studies, Queen's University, Belfast, 155-93.
- Fenton A. 1976 Scottish Country Life. John Donald, Edinburgh.
- Flinn M. ed. 1977 Scottish Population History. Cambridge University Press.
- Gaffney V. 1959 "Summer Shielings." Scottish Historical Review 38, 20-35.
- Gailey A. & Fenton A. eds. 1970 The Spade in Northern and Atlantic Europe. Ulster Folk Museum and the Institute of Irish Studies, Queen's University, Belfast.
- Gaskell P. 1968 Morvern Transformed: A Highland Parish in the Nineteenth Century. Cambridge University Press.
- Gibb A.D. 1946 Students' Glossary - Scottish Legal Terms. William Green & Son. Edinburgh.
- Gray M. 1955 "The Highland Potato Famine of the 1840's." Economic History Review 2nd series, 7.3, 357-68.
- Gray M. 1957 The Highland Economy, 1750-1850. Edinburgh.
- Hamilton H. 1963 The Economic History of Scotland in the Eighteenth Century. Oxford.
- Handley J.E. 1953 Scottish Farming in the Eighteenth Century. London.
- Handley J.E. 1963 The Agricultural Revolution in Scotland. Glasgow.
- Hoskins W.G. 1970 (reprinted from Hodder & Stoughton, 1955) The Making of the English Landscape. Penguin Books Ltd., London.
- Hunter J. 1973 "Sheep and Deer: Highland Sheep Farming, 1850-1900." Northern Scotland 1.2, 199-222.
- Hunter J. 1976 The Making of a Crofting Community. John Donald, Edinburgh.
- Johnston C. 1889 The Crofters' Holdings (Scotland) Acts, 1886, 1887, 1888. T. & T. Clark, Edinburgh.
- Jones G. 1973 A History of the Vikings. Oxford University Press, London.

- Kyd J.G. ed. 1975 Scottish Population Statistics Including Webster's Analysis of Population 1755. Edinburgh.
- Longmuir and Donaldson, eds. 1879-82 Jamieson's Dictionary. Paisley.
- McIntosh I.G. and Marshall C.B. 1970 The Face of Scotland. Pergamon Press, Oxford.
- Malcolm G. 1883 The Population, Crofts, Sheep-Walks, and Deer-Forests of the Highlands and Islands. William Blackwood & Sons, Edinburgh & London.
- Millman R.N. 1975 The Making of the Scottish Landscape. B.T. Batsford, London.
- Mitchison R. 1962 Agricultural Sir John: The Life of Sir John Sinclair of Ulbster 1754-1835. Geoffrey Bles, London.
- Munro D.M. 1981 "Land Use on a Highland Estate: Strathspey 1747-1870." Unpubl. Ph.D., University of Edinburgh, Forthcoming.
- Napier Commission 1884 Evidence taken by Her Majesty's Commissioners of Inquiry into the Condition of the Crofters and Cottars in the Highlands and Islands of Scotland. 4 vols. Edinburgh.
- Ó Danachair C. 1970 "The Use of the Spade in Ireland." in A. Gailey and A. Fenton, eds., The Spade in Northern and Atlantic Europe. Ulster Folk Museum and the Institute of Irish Studies, Queen's University, Belfast.
- Parry M.L. 1975 "Secular Climatic Change and Marginal Agriculture." Transactions of the Institute of British Geographers 64, 1-13.
- Pearson M.G. 1973 "Snowstorms in Scotland, 1782-1786." Weather 28.5, 195-201.
- Perren R. 1975 "The Meat and Livestock Trade in Britain, 1850-1870." Economic History Review 2nd series, 28.3, 385-400.
- Rainsford-Hannay F. 1957 (2nd edition 1972) Dry Stone Walling. Faber & Faber, London.
- Rankine J. 1884 The Law of Land Ownership in Scotland. 2nd ed., Edinburgh.
- Richeson A.W. 1966 The English Land Measuring to 1800: Instruments and Practices. London.
- Robertson I.M.L. 1949 "The Head-Dyke: A Fundamental Line in Scottish Geography." Scottish Geographical Magazine 65, 6-19.
- Salaman R.N. 1949 (reprinted 1970) The History and Social Influence of the Potato. Cambridge University Press.
- Sinclair Sir John, ed., 1791-9 The Statistical Account of Scotland drawn up from the communications of the ministers of the different parishes. 21 vols.

- Sinclair Sir John 1795 General View of the Agriculture of the Northern Counties and Islands of Scotland. Colin McCrae, London.
- Skardi J. 1970 "Faroeese Cultivating and Peat Spades." in A. Gailey and A. Fenton, eds. The Spade in Northern and Atlantic Europe. Ulster Folk Museum and the Institute of Irish Studies, Queen's University, Belfast.
- Smout T.C. 1964 "Scottish Landowners and Economic Growth 1650-1850." Scottish Journal of Political Economy 11, 218-34.
- Smout T.C. 1969 A History of the Scottish People 1560-1830. William Collins & Sons, London.
- Stilgoe J.R. 1976 "Jack-o-Lanterns to Surveyors: The Secularization of Landscape Boundaries." Environmental Review 1, 14-31.
- Symon J.A. 1959 Scottish Farming Past and Present. Oliver & Boyd, Edinburgh.
- Timperley L.R. 1976 A Directory of Landownership in Scotland c. 1770. Scottish Record Society, new series 5.
- Walker B. 1979 "The Vernacular Buildings of North East Scotland: An Exploration." Scottish Geographical Magazine 95.1, 45-60.
- Walker J. 1808 The Economic History of the Hebrides and Highlands of Scotland.
- Watson G. 1882 Bell's Dictionary and Digest of the Law of Scotland. Bell and Bradfute, London.
- Webber R. 1968 The Early Horticulturists. David & Charles, Newton Abbot.
- Whetham E.H. 1962 "Prices and Production in Scottish Farming 1850-1870." Scottish Journal of Political Economy 9, 233-43.
- Whittington G. 1970 "The Problem of Runrig." Scottish Geographical Magazine 86.1, 69-73.
- Whittington G. 1973 "Field Systems in Scotland." in A.R.H. Baker and R.A. Butlin, eds. Studies of Field Systems in the British Isles. Cambridge.
- Whyte I. 1974 "Agrarian Change in Lowland Scotland in the Seventeenth Century." Unpubl. Ph.D. thesis, University of Edinburgh.
- Whyte I. 1976 Scottish Historical Geography: Survey and Prospect. Dept. of Geography, University of Edinburgh.
- Wood H.J. 1931 An Agricultural Atlas of Scotland. London.
- Wright R.P. ed. 1910 The Standard Cyclopedia of Modern Agriculture. Vol. 10, London.

II. ARCHIVAL SOURCES

Shetland County Library
(the "Shetland Room")

Shetland Times (ST)

Shetland News (SN)

E.S.R. Tait collection

Rattar collection

Miscellaneous papers and articles

Shetland Archives

1. Estate Collections

E.S.R. Tait MSS	(D6)
Neven of Windhouse MSS	(D12, also <u>see</u> NRA (Scot) 0445)
Bruce of Sumburgh MSS	(D8, also <u>see</u> NRA (Scot) 0447)
Edmondston of Bunes, Unst MSS	(Edmondston, also <u>see</u> NRA (Scot) 0440)
Nicolson of Lochend MSS	(Nicolson)
Thomas Irvine of Midbrake, Yell MSS	(TI, also <u>see</u> NRA (Scot) 0122)
Andrew Dishington Mathewson, Yell MSS	(ADM)

2. Miscellaneous

Newspaper Clipping File (Shetland News and Shetland Times)
covering the visits of the Crofters Commission to Shetland in
1889 and 1892 to investigate Fair Rents.

Sheep Scab File comprised of letters and documents (1786-1794)
covering the repeated outbreaks of sheep scab on the south Main-
land, Shetland during the late eighteenth century. (File com-
piled by Marsha Renwanz, 1978)

Manuscripts in Private Collections

Gardie House MSS and Plans: Mr. and Mrs. J. Scott, Garth, Bressay
(Garth, also see NRA (Scot) 0450)

Diary of Reverend George Clark (Dunrossness minister, Mail Church,
Cunningsburgh, c. 1870): Mr. T. Henderson, the Manse, Lerwick.

Diary of Francis Heddle (of Cunningsburgh & Lerwick, c. 1820): Mr.
T. Henderson, the Manse, Lerwick.

Lerwick Sheriff Court

Sheriff Court Processes, pre 1750 - 1899 (SC12/6/boxes 1-160).

Register of Deeds, 1687 - 1902 (SC12/53/books 1-15).

Sketches, Diagrams, and Maps.

National Register of Archives, Scotland

(see above, Shetland Archives 1. Estate Collections, and Manuscripts in Private Collections)

Alexander Begg Papers, Crofters Commissioner for British Columbia (Canada), 1887-1904 (NRA (Scot) 1427)

National Library of Scotland (Map Room)

Ordnance Survey six-inch, first edition maps of Shetland

Scottish Record Office

Register House Plans (RHP)

Court of Session Records (CS)

Bruce of Symbister Muniments (GD144)

Wilson and Dundas Muniments (GD236)

Valuation Rolls of the County of Shetland, 1856 - 1900 (VR118)

Agriculture and Fisheries Records (AF39 23/books 1-4; AF51)

Customs and Excise (CE85)

Inventory of Orkney and Shetland Papers (RH9/15)

Miscellaneous Books

III. PERSONAL COMMUNICATION, LECTURES, CONFERENCES AND TYPESCRIPTS

Personal Communication

When not concerned with literary and manuscript sources, this thesis relied heavily on local knowledge. As a result, oral history played a vital role in my understanding of life in Shetland during the nineteenth century. Among the numerous people who patiently answered what might have appeared to them to be naive questions, I should like to especially thank the following individuals who contributed greatly to my comprehension of Shetland's history.

Anderson sisters, Lerwick

Mr. J. Burgess, Research and Development Board, Lerwick

Mr. A. Fraser, Crosbister, Unst

John William and Margaret Halcrow, the Glover, Fladdabister

Halcrows of Tow, Cunningsburgh

Mr. T. Henderson, the Manse, Lerwick
 Leasks of Bigton
 Aggie Johnston of the Ligg, Cunningsburgh
 Mr. and Mrs. J. Johnston, Glencairn, Lerwick
 Laura Malcolmson, Cunningsburgh
 Mr. G. Morrison, Cova, Weisdale
 Mr. F. Robertson, Shetland Islands' Council, Lerwick
 Mr. and Mrs. R. Robertson, King Harald St., Lerwick
 Scotts of Gardie, Bressay
 Members of the Women's Rural Institute (Lerwick and Cunningsburgh)

Lectures, Conferences and Typescripts

- Adams I.H. Autumn 1976 "Economic Historical Geography of Scotland, 1650-1850." Lectures to 4th year Human Geography students, Geography Dept., University of Edinburgh.
- Morrison I.A. November 1976 "Shetland." Lecture to Geography students, Geography Dept., University of Edinburgh.
- "Scottish Rural Settlement." Autumn 1979 Conference organized by the Dept. of Adult & Continuing Education, University of Glasgow.
- Smith B. 1973 "The Amazing Social History of Shetland." Unpubl. MSS
- Smith B. 1974 "The Shetland Method." Typescript.
- Smith B. 1977 "Scat and Scattald: Land Taxation and Land Divisions in Medieval Shetland." Lecture, Lerwick.
- Smith B. 1978 "'Lairds' and 'Improvement' in 17th and 18th century Shetland." Lecture to Scottish Historical Conference, University of Edinburgh.
- Smout T.C. Nov. 1976 "Food of the Working Class during the Nineteenth Century, with Regional Variations in Scotland." Lecture to 4th year Human Geography students, Geography Dept., University of Edinburgh.

With the kind permission of Dr. I.H. Adams, Department of Geography, University of Edinburgh, I have been able to produce this updated version of his DIRECTORY OF FORMER SCOTTISH COMMONTIES (Edinburgh 1971) for the county of Shetland. This directory therefore combines both Dr. Adams' work on the former Shetland common-ties, as well as my own amendments and additions.

The directory is arranged by parish under the general county heading of Shetland or Zetland, as it was called then. Within the parish the individual scattald are listed alphabetically. The location of the scattald is then given using the National Grid reference of its approximate centre plus a brief geographical description of its location. Documents relating to the scattald and its possible perambulation or partial division and enclosure prior to a complete division follow in chronological order. The date and names of the principle parties involved in the division along with the commissioner, appointed by the Court of Session, or the arbiter, voluntarily chosen by the parties involved, are listed next. A surveyor appointed by the commissioner or the arbiter is then given and any mention of maps still in existence are listed. Valuers chosen by the surveyor are then given along with their occupation. Finally, the division date and the cost of the division is noted.

ZETLAND

BRESSAY

Scattald of Bressay

The commonity of Bressay, consisting of 312 merks 6 ures, occupied the high ground of the island (HU5039). A summons of division of commonity and runrig was raised in 1873 by Major Thomas Mouat Cameron of Garth and Annsbrae and Miss Margaret Ann Mouat or Gardie House against the Rev. Zachary Hamilton, the manse, Bressay and the Rev. Alexander Saunders, Moderator of and representing the Presbytery of Lerwick, for interest in the glebe lands which were a very small part of the commonity (Cameron v Hamilton & ors-CS243/1,223). Robert Laing, land surveyor at Gulberwick and Fleming Laurenson were appointed to value the scattald and runrig lands and Laing was to make a plan. He completed a map of the scattald of Bressay in 1875 and it is among the maps at Gardie House, Bressay (NRA(Scot)/0450). This process fell asleep and was awakened in 1882, and a decree was obtained on 7 March of the same year. The total cost of the process was £ 29 9s 7d..

DELTING

Scattald of Brough

The scattald of Brough lay to the west of Brough township between the Hill of Crooksetter and Mio Ness (HU4277). A summons of division of commonity and runrig was raised in 1862 by Mrs. Mary Gifford, wife of late Arthur Gifford of Busta, and others against Thomas Cameron of Annsbrae and others (Gifford v Cameron - CS46

88/7/1869). As well as the scattald of Brough, the process included the scattalds of Burraness, Firth and Laxobigging, the four being treated legally as one. Their area totalled 4833 acres. Commission was granted to William Edmonstoune Aytoun, sheriff of Orkney and Zetland. In 1865 he appointed Roderick Coyne civil engineer and surveyor in Edinburgh, to measure and make plans of the scattald (RHP3975, 3976, 3977, 3978, 3979/1-2; copy in Lerwick Sheriff Court). John Houston, schoolmaster in North Yell, and James Jaffrey of Belmont, Unst, were appointed to act as valuers. The scattald was divided in 1869 at a total cost of £1306 1s 1/2d. An 1866 tracing showing the sections of value and the scheme of allocation of the Commonities of Brough, Firth, Swinister, Laxobigging by Roderick Coyne exists among the Gardie map collection (NRA(Scot)/0450).

Scattald of Burra Ness

The scattald of Burra Ness occupied most of the Burra Ness peninsula except for a narrow strip around the south and east coasts (HU4475). It was divided in the same process as the scattald of Brough, Firth and Laxobigging (see above). Several plans were made during the process showing its boundaries, valuation and scheme of division (RHP3975, 3976, 3977, 3978). An 1866 map of the commonity of Brough, Firth and Laxobigging exists among the Gardie House map collection (NRA(Scot)/0450).

Scattald of Burravoe

The scattald occupied the land around the townships of Brae and Wethersta (HU3867). No information is known about this scattald.

Scattald of Colbackness

The scattald occupied the whole of the Colbackness peninsula (HU3976). There is no information as to whether this scattald was ever divided. Garth estate seemed to be the sole owner by the nineteenth century (Wills 1978).

Scattald of Collafirth and Swining (also known as Collafirth Ness)

The scattald of Collafirth and Swining, consisting of 1525 acres, extended from the Hill of Dale to Olna Firth (HU4167). Part of it, along the Hill of Dale, was also known as the scattald of Dale (Deal) (RHP3975). In 1791 Robert Hunter of Lunna, the major landowner, instigated a division of the improvable unenclosed piece of land in Collafirth and Swining scattald to which the other heritors agreed. In 1793 a division by submission was entered into by the heritors. Walter Scott, the sheriff of Shetland, was chosen as arbiter and Andrew Hawick of Swinister and Laurence Johnson of Lunna were chosen as measurers. A dispute arose as to whether Collafirth and Swining were one or two scattalds. The former was agreed upon and a march line was found and fixed (SC12/6/045 (3273); D8/210,215). A plan of the division of Collafirth (incl. a sketch of the scattalds of Scatsta and Trondravoe) was done in 1794 and the sheriff agreed with the plan of division (SC12/6/120). The decret arbitral was registered in the sheriff court books of Lerwick in 1794 (SC12/53/6). Since the original surveyors had disputed the measurement of the scattald, J.L. Leaski was chosen as

surveyor and he surveyed a total of 58 acres of improvable ground.

A summons of division of commony and runrig was raised in 1868 by Charles Hay and others, trustees for the late Arthur Gifford of Busta, against Thomas, Earl of Zetland, and others (Gifford's trustees v Zetland - CS46 87/5/1876). As well as the scattald of Collafirth and Swining, the process included the scattalds of North and South Olnafirth and Trondravoe. Commission was granted to Andrew Mure, sheriff-substitute of Zetland. In 1873 he appointed Francis Taylor, land surveyor, to measure and make plans of the scattald (RHP3924, 3925, 3926, 3927, 3928, 3929, 3930). An inventory of the division and a sketch map of the area may be found in the Lerwick Sheriff Court (SC12/6/120 Inventory of Process of Division of South Delting). A total of 9375 acres were divided in 1876 at a cost of £ 814 2s 11d. Encroachments on the scattald due to disputed boundaries were the reason for instigating the division.

Scattald of Crooksetter

The scattald of Crooksetter (Cruxter), whose extent is not known, lay between Orka Voe and the scattald of Brough, north of the Hill of Crooksetter (HU4176). There is no information as to when this scattald was divided, but it is shown on a plan dated 1861 (RHP3975).

Scattald of Firth

The scattald of Firth lay to the south and west of Firth township, between Neshion Water and Hill of Swinister (HU4373). It was divided in the same process as the scattalds of Brough, Burra Ness and Laxobigging (see Brough). Plans of the scattald were made for this process (RHP3975, 3976, 3977, 3978).

Scattald of Garth

The scattald of Garth, whose extent is not known, occupied all of the lands between North Burn and Hill of Crooksetter around the rooms of Garth (HU4174). It is shown on a plan dated 1861 (RHP 3975). The scattald was owned by the Garth estate and as such it was not considered commony.

Scattald of Gonfirth

The scattald of Gonfirth, whose extent is not known, lay to the east of Gonfirth township (HU3861). It is shown on an undated plan of the scattalds of Delting parish (RHP5570).

Scattald of Laxobigging

The scattald of Laxobigging lay to the south of Laxobigging township and extended as far as Dales Voe (HU4171). It was divided in the same process as the scattalds of Brough, Burra Ness and Firth (see Brough). Several plans were made of this scattald during the progress of this process (RHP3975, 3976, 3977, 3978, 3979/1). An 1866 map of the commonities of Brough, Firth, Swinister and Laxobigging by Robert Coyne exists among the Garth estate map collection (NRA(Scot) 0450).

Scattald of North Olnafirth (also known as North-the-Voe Scattald)

The scattald of North and South Olnafirth, consisting of 5947 acres, extended each side of Olna Firth (HU4062). The scattald was also known by the names North-the-Voe and South-the-Voe. It was divided in the same process as the scattalds of Collafirth and Swining and Trondravoe (see Collafirth). Several plans show the boundary, valuation and scheme of division of this scattald (RHP3925, 3928, 5570; copy in Lerwick Sheriff Court).

Scattald of Scatsta

The scattald of Scatsta, whose extent is not known, lay southwards from Scatsta Ness to Dalescord Hill (HU3871). In 1797 a description of the boundary between Scatsta and Trondravoe was described in the Register of Deeds (SC12/53/7 Advertisement and Resolutions the heritors of the Scattalds of Trondravo and Scatsta 1797). The scattald is shown on a plan dated 1861 (RHP3975; RHP3930 - disputed march between scattalds of Scatsta and Olnafirth). An 1868 sketch of the area exists among the 'Inventory of Process of Division of South Delting 1869-73' (SC12/6/120).

Scattald of South Olnafirth

By the time of the division of North Olnafirth, this scattald was owned exclusively by Charles Hay, trustee for Arthur Gifford of Busta and it was therefore no longer considered commonty (Gifford's trustees v Zetland - CS46 87/5/1876).

Scattald of Swining

(see Collafirth)

Scattald of Trondravoe and Hardwell

The scattald of Trondravoe and Hardwell, consisting of 1902 acres, occupied the hill ground from North Ward to Riding Hill (HU3769). It was also known as the scattald of Voxter (RHP3975). In 1797 the Scatsta-Trondravoe boundary was described in the Register of Deeds (SC12/53/7; see Scatsta). A sketch of the area exists among the 'Inventory of Process of Division of South Delting 1869-73' (SC12/6/120). Trondravoe and Hardwell was divided in the same process as the scattalds of Collafirth and Swining and North and South Olnafirth (see Collafirth). Plans were made of the scattald during this process (RHP3924, 3929).

DUNROSSNESSScattald of Channerwick

The scattald of Channerwick (including the scattalds of Deepdale, Maywick, Ireland and Bigtown), consisting of 2552 acres, extended along the ridge of the Dunrossness peninsula from Savers Field to the Burn of Geosetter (HU3923). In 1871 a Memorandum by John Bruce, junior suggested that arbiters be chosen to decide the boundaries of each scattald in Dunrossness, Sandwick and Cunningburgh, and then each scattald should be divided as a separate scattald among

the heritors. In 1875 a submission for ascertaining, straightening and fencing the marches between the respective scattalds was agreed to by the heritors and Andrew Mure, sheriff-substitute of Zetland, was chosen as arbiter. In 1877 a summons of division of commonry and runrig was raised by William Bruce of Symbister and his curators against John Bruce of Sumburgh and others (Bruce v Bruce - CS46 39/8/1888 Box 5012). As well as Channerwick, this process included the scattalds of Clift Hills, Fladdabister, Levenwick, North Cunningsburgh, Scousburgh and Rerwick, and South Hill. Commission was granted to Charles Rampini, sheriff-substitute of Caithness, Orkney and Zetland. In 1878 he appointed James William Hepburn, land surveyor in Lerwick to measure and make plans of the scattalds (RHP3953-63; copy in Lerwick Sheriff Court). George Keith, a farmer at West Sandwick, Yell and David Inglis, a farmer at Flemington, Weisdale acted as valuers for the process. The Lerwick Sheriff Court possesses an inventory of the division along with the Proposed Scheme of Allocation, 1880 (SC12/6/125). The scattalds were divided in 1888.

Scattald of Clift Hills

In approximately 1786 a 'List of Lands for a sale of Clift Hills' was written in order to sort out ownership in the towns. This occurred just prior to runrig division and also prior to the total acquisition of the Clift Hills by the Cunningsburgh lairds. Up until 1788 the Clift Hill scattald was shared by Scott of Scalloway and the landowners and tenants of Cunningsburgh (D8/124 List of Lands for a sale of Clift Hills). In 1788 Scott sold his share of the hills to the Cunningsburgh lairds to be shared among them in accordance with their percentage share of the townlands. The scattald of Clift (Cliff) Hills, consisting of 212 acres, was divided between the scattalds of Fladdabister and North and South Cunningsburgh and in the division was treated as an integral part of these (see Channerwick).

Scattald of Clumlie

The scattald of Clumlie, whose extent is not known, lay adjacent to the scattalds of Levenwick and Scousburgh, north of Clumlie township (HU4018). A plan of the scattalds in Dunrossness parish, dated 1877, shows only part of the boundary of this scattald (RHP 3953). The scattald never underwent division for the sole owner was Bruce of Sumburgh (GD144/247 Notes on Dunrossness Scattalds 1876; Notes on Mr. Bruce's letter to Mr. Bell...Jan. 1878). Part of the scattald seems to have been enclosed by Bruce sometime in 1889 (D8/373 J. Grierson to Mr. R. Gunn; Defences for Charles Goudie...).

Scattald of Fitful Head

The scattald of Fitful (Fitfill) Head, consisting of 1365 acres, extended eastwards from the massif cliffs of Fitful Head on the extreme southwest coast of Zetland (HU3516). A summons of division of commonry was raised in 1815 by Robert Bruce of Symbister against Andrew Grierson of Quendale (Bruce v Grierson - CS44 11/7/1826). "...this is the first process of division that has been attempted in relation to lands situated within the lordship or islands of

Shetland..." (CS44 11/7/1826 First Division June 10, 1823). A dispute had arisen over peat cutting rights and the use of the land as a common. Commission was granted to Andrew Duncan, sheriff-substitute of Zetland. In 1818 he appointed William Crawford, junior, land surveyor in Edinburgh, to measure and make a plan of the scattald (RHP4003). John Grant, a farmer in Lerwick and James Strong, a farmer and tacksman at Bigtown were the valuers. A scheme of division exists among the Symbister papers (GD144/130). It was divided in 1826 at a total cost of £136 13s 1d.

Scattald of Fladdabister

The scattald of Fladdabister (including part of the scattald of Clift Hills), consisting of 1459 acres, extended across the Dunrossness peninsula, south of the parish boundary, between Clift Sound and Fladdabister township (HU4133). Some years prior to 1826 Nicolson of Lochend petitioned the sheriff for a perambulation of the marches between Fladdabister and North Cunningsburgh so that some differences of opinion could be settled (D6/124/21). The scattald was divided in the same process as the scattald of Channerwick, etc. (see Channerwick).

Scattald of Hoswick

The scattald of Hoswick, consisting of 944 acres, lay on the hill ground north of Hoswick, and extended across the Dunrossness peninsula to Housensellar, immediately north of the scattald of Channerwick (HU3926). A summons of division of commonalty was raised in 1899 by John Bruce of Sumburgh against Nicol Halcro of Stove and others (Bruce v Halcro - CS257/3643). Disputed grazing rights were the reason for the Hoswick division. The Sandwick and Leebiton tenants from the Sumburgh estate had been encroaching on the Hoswick scattald due to an increasing number of tenants on the former scattald and the tenants had also taken in a number of outsets (D8/354). Commission was granted to Alexander Moffat, sheriff-substitute of Caithness, Orkney and Zetland. In 1900 he appointed Malcolm Heddle, land surveyor in Kirkwall, to measure and make plans of the scattald (RHP4147, 4148, 4149). In 1902 a further report was prepared by Joseph Irvine, surveyor, relating to the division of the Meadow and Lea of Swinister and the town lands of South Hoswick. Two local men, a farmer and a Lerwick resident, were chosen as valuers and the total expense of the division came to £1186 13s 7d. (D8/354 Division of Scattald of Hoswick 1899). The scattald was divided about 1911 but the process was retransmitted in 1924.

Scattald of Leebotten (and Sandwick)

The scattald of Leebotten (Leebiton), whose extent is not known, lay on the high ground to the northwest of Leebotten township (HU4225). There was no reason to determine the boundary between Leebitten and Sandwick since both were owned solely by John Bruce of Sumburgh. (Bruce v Halcro - CS257/3643; D8/354).

Scattald of Levenwick

The scattald of Levenwick, consisting of 811 acres, lay on the steeply rising hill to the west and south of Levenwick township (HU4021). The scattald was divided in the same process as the

scattald of Channerwick (see Channerwick). Levenwick scattald boundaries are given in 'Notes on Dunrossness Scattalds 1876' (GD144/247).

Scattald of North Cunningsburgh

The scattald of North Cunningsburgh (including a part of the scattald of Clift Hills), consisting of 2477 acres, extended across the Dunrossness peninsula between Starkigarth and the crest of the Clift Hills (HU4131). It was divided in the process of division of the scattald of Channerwick (see Channerwick).

Scattald of Sandwich (see Leebitten)

The scattald of Sandwich, whose extent is not known, lay across the Dunrossness peninsula and north of the scattald of Hoswick (HU4026). A plan dated 1877 made for the division of the latter scattald, shows the southern boundary of Sandwich adjacent to the scattald of Channerwick (RHP3953). However, this appears to be in error as the commonty of Hoswick lay to north of Channerwick (see Channerwick). In the summons of division of the Hoswick scattald Sandwich is referred to as the sole property of the pursuer, John Bruce of Sumburgh (Bruce v Halcro - CS257/3643).

Scattald of Scatness

The planking of the townlands had been done between 1777 and 1780 and marches placed between the four planks (GD144/212 The attested placing of the marches betwixt the four great planks of Scatness, by the Plankers, 23 Oct. 1779; D8/385 Division of Scatness). Submission to divide the commonty of Scatness was entered into by John Bruce of Sumburgh, Robert Bruce of Symbister, George Smith, factor loco absentis of John Strong and William Allison of Goat, heritors of Scatness in 1870 (GD144/156, 167). Andrew Mure, sheriff-substitute of Zetland, was chosen as arbitor and Thomas Irvine, land surveyor in North Yell, was chosen as surveyor and valuator (TI392/4 Minutes of Perambulation). A decret arbitral was pronounced in January 1873 (SC12/53/13; GD144/247). The total expense of the division came to £107. Upon completion of the legal **division** L. Shewan agreed to help construct and pay for a wire and stone fence (D8/385).

Scattald of Scousburgh and Rerwick

The scattald of Scousburgh and Rerwick, consisting of 540 acres, occupied the Ward of Scousburgh south of the Burn of Geosetter (HU3819). The scattald "belongs mainly to Symbister except for two merks belonging to the Rep.^s of Gavin Henderson..." (GD144/247). A fence was constructed to separate Clumly (Sumburgh estate) from Scousburgh and Rerwick (mainly the Symbister estate) (GD144/247 Report of Valuation...Bruce v Bruce 1875). The scattald was divided in the same process as the scattald of Channerwick.

Scattald of South Cunningsburgh

The scattald of South Cunningsburgh, whose extent is not known, lay to the south of the scattald of North Cunningsburgh (HU4129).

In 1827 John Bruce and Robert Bruce exchanged some property in North and South Cunningsburgh to consolidate their estates. In the exchange the Sumburgh estate acquired further lands in South Cunningsburgh (GD144/124). A plan, dated 1877, made for the division of the scattalds of Dunrossness, shows the northern boundary of the scattald (Bruce v Halcro - CS46 38/1934). The sole owner of the scattald was John Bruce of Sumburgh (GD144/247 Notes Dunrossness Scattalds 1876). "He [Bruce jr., Sumburgh] erected fences at the south and north sides of South Cunningsburgh some four years ago without consulting anyone..." (GD144/247 Bruce to Bell Jan. 1878).

Scattald of South Hill

The scattald of South Hill, consisting of 126 acres, occupied the hill ground rising to the east of Loch of Spiggie (HU3816). South Hill was divided in the same process as the scattald of Chanerwick.

FETLAR

In 1850, Thomas Irvine, land surveyor in Yell, perambulated the Fetlar scattalds so that marches or boundaries could be established (TI388/131, 137, 138, 171).

Scattald of Aith

The scattald of Aith, consisting of 605 acres, extended northwards from Aith township to the Wick of Gruting (HU6391). A summons of division of commonalty was raised in 1872 by Thomas, Earl of Zetland, against Lady Eliza Nicolson and others (Zetland v Nicholson - CS249/7694A; CS249/7964B). As well as Aith, the process included the scattalds of Grutton, Funzie, and Strand. A further summons was raised by the same parties for the division of the scattalds of Dale, Houbie, Oddsta, Russater and Urie (Zetland v Nicolson - CS249/7694A; CS249/7964B). The two processes proceeded as a conjoined action for the division of all the scattalds on the island of Fetlar. The process began in 1872 with Andrew Mure, sheriff-substitute of Orkney and Zetland, as commissioners; John D. Miller, civil engineer from Kirkwall, as surveyor; and James Jaffrey (farmer at Belmont, Unst) and George Keith (farmer at West Sandwick) as valuers with Thomas Irvine as oversman. By 1880 Charles Rampini had replaced Mr. Mure as commissioner and J.W. Hepburn a land surveyor in Lerwick, had replaced J.D. Miller as surveyor. (D8/418 Division of Scattalds of Grutton, Aith, Funzie, Strand; Nicholson - 134, 140; Nicolson - Report of Valuation). Only a tracing of the scattald of Strand survives (RHP6163). Before the action was completed an excambion of land (in the year 1880) between the parties involved in the processes rendered it unnecessary to proceed further with the division of the scattalds of Dale, Funzie, Grutton, Oddsta, Russater and Urie. Thus the scattalds of Aith, Houbie, and Strand were all that were left for judicial division. These were divided, after a new set of plans had been made in 1882 (missing). A total of 1811 acres were finally divided.

Scattald of Dale

The scattald of Dale, consisting of 494 acres, occupied part of the peninsula of Lambhoga (HU6088). It was being divided in the same process as the scattald of Aith, when an excambion of land made it no longer commonalty (see Aith). Arthur Nicolson was trying to consolidate his Fetlar holdings within certain scattalds during the 1840s (Nicolson - 140 Inventory of Title Deeds). A final excambion of land just prior to the scattald division made Nicholson the sole owner of the scattald of Dale.

Scattald of Funzie

The scattald of Funzie, consisting of 767 acres, lay to the north of Funzie township on the hill ground of Funzie Ness (HU6690). It was being divided in the same process as the scattald of Aith, when an excambion of land made it no longer commonalty (see Aith). Both Nicolson and the Earl of Zetland were eager to consolidate their holdings. Excambions and sales of land enabled the Earl of Zetland to gain exclusive rights to the scattald of Funzie (Nicolson - 134 Sir A. Nicolson to Earl of Zetland 2 Mar. 1840; Dickson to Sievwright 24 Nov. 1875). Map PHP12817 shows the room lands with some scattald land in the southwest corner of the diagram.

Scattald of Grutton

The scattald of Grutton, consisting of 800 acres, lay along the coast overlooking the Wick of Gruting (HU6491). In 1840 a two mile long stone dyke had just been completed at Grutton by Sir A. Nicolson enclosing 250 acres. This was done just prior to pasturage of the enclosure with English sheep and wethers (Nicolson - 134 Sir A. Nicolson to Earl of Zetland 2 Mar. 1840). Sir Arthur was again consolidating his holdings and by the time of the Fetlar divisions, he owned the scattald of Grutton exclusively. An excambion had occurred and it was no longer considered scattald (see Aith).

Scattald of Houbie

The scattald of Houbie, consisting of 696 acres, lay to the north of Houbie township around Skutes Water (HU6291). It was divided in the same process as the scattald of Aith (see Aith).

Scattald of Lambhoga

The extent of the scattald is not known. It was located on the peninsula of land to the west of the Wick of Tresta (HU6088). Sir A. Nicolson was the sole owner of the scattald with the ministry having a certain right of pasturage on it. (Nicolson - 140 1881 Joint Minute, 1888 Reclaiming Charge, 1889 Nicolson v Minister).

Scattald of Oddsta

The scattald of Oddsta, consisting of 199 acres, lay on the northwest of the island near Hamars Ness (HU5893). It was being divided in the same process as the scattald of Aith, when an excambion of land made it no longer commonalty (see Aith). Lady Nicolson was the sole owner after the excambion.

Scattald of Russater

The scattald of Russater, consisting of 867 acres, lay somewhere on the island of Fetlar, but its exact location has not yet been established. Sir A. Nicolson was involved in excambions very early in an effort to concentrate his holdings in specific scattalds (Nicolson - 140 Inventory of Deeds). A final excambion just prior to the Fetlar scattald divisions rendered Russater the sole property of Lady Nicolson.

Scattald of Strand

The scattald of Strand, consisting of 510 acres, extended from Strand to Strandburgh (HU6691). This scattald was also involved in some excambions prior to its division (Nicolson - 134 Letter 2 Mar. 1840, Letter 24 Feb. 1875). It was divided in the same process as the scattald of Aith (see Aith). A tracing of a plan of the scattald showing a scheme of division is the only plan that had survived in this process (RHP6163).

Scattald of Urie

The scattald of Urie, consisting of 345 acres, lay to the south of Urie Ness in the north of the island (HU5993). An excambion involving Sir A. Nicolson occurred in 1830 as he was already concerned with consolidating his holdings (Nicolson - 140 Inventory of Title Deeds). By the time of the Fetlar divisions Lady Nicolson was sole owner of this scattald.

LERWICKScattald of Brindister

The scattald of Brindister, whose extent is not known lay to the south of the scattald of Gulberwick on the hill slopes west of Loch of Brindister (HU4236). It was divided in the same process as the scattald of Gulberwick in 1874 (CS17 93, 1873-4, 361; SC12/6/126). A plan by Robert Laing (1873) exists in the Lerwick Sheriff Court.

Scattald of Grimista (Gremister)

The scattald of Grimista, whose extent is not known, lay on the hill slopes surrounding the township of Grimista (HU4544). A plan of the scattald of Dale, Tingwall yields the only evidence relating to this scattald (RHP3922). It shows the mutual boundary of the two scattalds running along the parish boundary between North and South Corse. From the Valuation Roll for 1856 Sir A. Nicolson appeared to be the sole owner of the towns in Grimista scattald (VR118 - 1856, Lerwick).

Scattald of Gulberwick

Scattald of Gulberwick, consisting of 1821 acres, lay to the west of Gulberwick township (HU4338). A summons of division of com-monty was raised in ca. 1873 by William Robertson of Wick against Thomas, Earl of Zetland, and others (Robertson v Zetland - CS46 11/5/1874, retransmitted). As well as Gulberwick, the process

included the scattald of Brindister and others not specified (CS17, 93, 1873-4, 361). A plan was made by Robert Laing in 1873 (Lerwick Sheriff Court). A decret of division was extracted on 17 March 1874 (CS17, 93, 1873-4, 361).

Scattald of Quarff

The scattald of Quarff, whose extent is not known, lay between the scattalds of Fladdabister (Dunrossness parish) and Uradale (Tingwall parish) with the parish boundaries marking the northern and southern limits of the scattald (HU4135). References to Quarff were made in the division of both Fladdabister and Uradale and a plan was produced to show the disputed boundary with the former (RHP6450). A 'Note of Dunrossness Scattalds 1876' lists the four owners of the scattald - the Earl of Zetland, John Hay, Rep.^s of Messrs. Irvine and Joseph Leask (GD144/247). The scattald is still grazed in common today.

Scattald of Sound

The scattald of Sound, whose extent is not known, lay to the west of Lerwick on the hills rising from Loch of Clickimin (HU4541). Lerwick was originally built on the scattald and with the growth of the town, constant encroachments were made upon it (NSA, xv, 3). In 1818 a submission was made by the heritors of Sound and Trebister in order to clarify the scattald boundaries and in 1820 a decree arbitral was approved by the arbiters (SC12/53/9; D6/51). A summons of division of commonalty was raised in 1837 by Charles Ogilvy, merchant in Lerwick, against Lawrence, Lord Dundas and others (Ogilvy v Dundas - CS239 0/9/4; D6/114, 120). This process was abandoned in 1838. An undated map was made of the undivided part of the scattald (Lerwick Sheriff Court). Part of the scattald is shown on a plan of the scattald of Dale, Tingwall parish (RHP3922). A submission to sheriff Charles Rampini for the division of the commonalty was made by the heritors in 1890 and a decree arbitral was approved by him in the submission for division (SC12/53/15 pp. 32-54). The heritors had been concerned with the clarification of their holdings in view of the expanding town of Lerwick on one hand, and the large estate of Hayfield on the other. The surveyor, James W. Hepburn, surveyed a total of 1238 acres and the cost of the division came to £ 173 1s 1d.

Scattald of Trebister

The scattald of Trebister, consisting of 272 acres, occupied the Ness of Trebister (HU4538). A submission was made by the heritors of Trebister and Sound in 1818 in order to clarify and fix the scattald boundaries of the south and west sides of Sound, the south and east sides of Trebister, and the east side of Gulberwick since doubts concerning these boundaries had arisen among the heritors. In 1820 a decree arbitral was approved by William Mouat and Rev. John Turnbull, the arbiters chosen by the heritors (SC12/53/9; D6/51). A summons of division of commonalty was raised in 1850 by James Greig of Sandsound against Thomas, Earl of Zetland, and others (Greig v Zetland - CS239 G/39/8, no process; CS46 10/9/1859). Commission was granted to Robert Bell, sheriff-substitute of Orkney and Zetland. In 1857 he appointed Thomas Irvine, land surveyor in North Yell, to

measure and make a plan of the scattald (missing). The clarification of holdings was necessary since the immediate peat areas were diminishing. Thomas Irvine paid special attention to the "...relative worth and value of each section with respect to the surface, soil and subsoil, position and susceptibility of improvement", and to the shell-sand along the coast (CS46 10/9/1859 Report of Valuation 1857). These all seemed to reflect concern for land improvement. Joseph Leask, tacksman at Uya and Peter Laurenson, farmer at Gremista were valuers for the process. The total cost of the process was f 122 7s 7d. The scattald was divided in 1859 (TI394/29; D6/120/10). Two maps show part of the scattald boundaries (RHP9110, 9111).

NESTING

Scattald of Lunnasting

The scattald of Lunnasting, whose extent is not known, lay to the east of the scattald of Collafirth (Delting parish) extending eastwards across the Lunnasting peninsula (HU4665). It is shown on a rough sketch of the scattalds of north Mainland (RHP5570). No information has been discovered as to when this scattald was divided. The two major landowners were Robert Hunter of Lunna and John Bruce Stewart of Symbister.

Scattald of North Nesting

The scattald of North Nesting, consisting of 5375 acres, lay to the south of Dury Voe (HU4559). A summons of division of commonalty was raised in 1877 by William Bruce of Symbister against Lawrence Dundas, Earl of Zetland, John Bruce of Sumburgh and others (Bruce v Zetland - CS249 B/7/3, no process; CS249 B/7/4, no process; CS46 52/4/1880). Commission was granted to Charles Rampini, sheriff-substitute of Zetland. In 1878 he appointed James William Hepburn, land surveyor in Lerwick, to measure and make plans of the scattald (plan of the scattalds in the parish in Lerwick Sheriff Court; part of scattald shown on RHP5570). The map that exists of the scattald is by A.D. Mathewson, 1833. The valuers were David Inglis, farmer at Flemington, Weisdale and George Keith, farmer at West Sandwick, Yell. The total cost of the whole division was f 386 13s 4d. It was divided in 1880.

Scattald of Skellister

The scattald of Skellister, whose extent is not known lay to the northwest of Skellister township (HU4655). It is mentioned as lying to the east of the scattald of South Nesting (Bruce v Zetland - CS249 B/7/3, no process; CS249 B/7/4, no process; CS46 52/4/1880). No information has been discovered as to when this scattald was divided.

Scattald of South Nesting

The scattald of South Nesting, consisting of 3542 acres, lay to the north of Catfirth extending across the parish to the scattald of Skellister of the east (HU4654). Encroachments and subsequent enclosures were made upon sections of the scattald by the inhabitants early in the nineteenth century. Aswick commonalty (or commonalty of the towns of Brough, Vaas, Railsbrough, Eswick, Aswick and Gletness)

forms part of the larger scattald of South Nesting. In March 1800, William Bruce of Symbister, the major landowner, interdicted two of the tenants of the Lunna estate from making an enclosure on the common of Aswick prior to a legal division of the common (SC12/6/064 (5494) Petition of William Bruce of Symbister 7 Mar. 1800). In 1806, the tables were turned as Thomas Leisk, tacksman for the Lunna estate, petitioned to have Symbister and another landowners, Laurence Robertson, stopped since they were proceeding to enclose some of the same common. Thomas Leisk was willing to agree that both parties enclose a proportional share of the scattald, in other words, a division of the scattald by agreement out of court (SC12/6/067 T. Leisk v L. Robertson 1806). The scattald was finally divided by the same process as the scattald of North Nesting in 1880 (see North Nesting).

Scattald of Island of Whalsay

The scattald of the Island of Whalsay, consisting of 3537 acres, occupied most of the island with the exception of the arable ground around the township (HU5664). A summons of division of common and runrig (Brough township) was raised in 1830 by James and William Hay of Laxfirth, merchants in Lerwick against Bruce of Symbister (GD144/130 George Napier to Tod and Hill 21 July 1830). Commission was granted to Andrew Duncan, sheriff-substitute of Zetland. In 1833 he appointed William Matheson, land surveyor, to measure and make a plan of the scattald (RHP210/1). William Merrylees, a farmer in Grimesta, and James Strong, a farmer in _____ burgh, were the valuers. Only a valuers' report has been discovered relating to this process (RHP210/2; GD144/121).

NORTHMAVINE

The boundaries of the scattalds in this parish were acquired from a map done for the Busta estate by the factor, Arthur White, on an 1877 Ordnance Survey six-inch map and revised to 1902. By the end of the nineteenth century the Busta estate owned a very large proportion of this area. The map of Northmavine (the Busta map) is now in the possession of the Research and Development Board, Lerwick, as most of this land is now held by them.

Scattald of Ashaness (Eshaness)

The scattald was located on a bulge of land west of Hillswick (HU2178). The boundaries of the scattald were obtained from the Busta map. Nothing is known of the scattald.

Scattald of Collafirth and Ollaberry

The scattald, whose extent is not known, occupied the land surrounding and including Ronas Hill (HU3283). The boundaries of the scattald were obtained from the Busta map (see above).

Scattald of Gluss and Bardister

In 1791 a dispute arose over the building of a booth by Gilbert Henderson on the common where Gideon Gifford was the major proprietor. Gifford produced a petition before the sheriff and a decree

followed ordaining the demolition of the booth. Both parties then agreed to divide the whole commonity of Gluss and Bardister including the peninsula called Gluss Isle (SC12/6/050 (3821) Petition Gifford v Henderson Dec. 1791). In 1792 a submission was made by the heritors of Gluss and Bardister for dividing the commonity in order to avoid any disputes in future regarding the heritors' different properties and possessions in the commonity (GD144/119 Draft Submission for Dividing the Commonity of Gluss and Bardister...Sept. 1792). Laurence Leisk, shipmaster in Lerwick, surveyed a total of 72 merks of which the Busta estate owned 69. A petition by Gideon Gifford to Walter Scott (sheriff-substitute of Zetland) recording the marches of Gluss scattald, appears in the Register of Deeds for 1797 (SC12/53/7 Petition Gifford Respecting Gluss Scattald 1797).

Scattald of Hagrister and Mangaster

The scattald, whose extent is not known, occupied the land around Mangaster Voe (HU3271). The boundaries were obtained from the Busta estate map (Research and Development Board, Lerwick). The Busta estate was the major landowner.

Scattald of Hamar

The scattald of Hamar (Hammer), whose extent is not known, lay surrounding the township of Hamar (HU3176). A summons of division of commonity was raised in 1869 by the Rev. James Rose Sutherland, minister of the parish of Northmavine and others against Thomas, Earl of Zetland, and others (Sutherland v Zetland - CS250/5960, summons only). The action also included the scattalds of Hillswick, Murrion and Ura. Only the summons has survived of the process. The scattald boundaries can be obtained from the Busta map.

Scattald of Hillswick

The scattald of Hillswick, whose extent is not known, occupied most of the hillside rising from Burnside to the Mill Lochs of Stovabreck (HU2779). A sketch produced in the division of the Ness of Hillswick shows the complete boundary of Hillswick (RHP6452). It was divided in the same process as Hamar, Murrion and Ura (see above). The scattald boundaries can be obtained from the Busta map although these differ from those given in the summons of division for Hamar, Hillswick Murrion and Ura (CS250/5960).

Scattald of Murrion (and Braewick)

The scattald, whose extent is not known, occupied the land around Gluss Water (HU2580). It was divided in the same process as the scattalds of Hamar, Hillswick and Ura (see above). The boundaries were obtained from the Busta map (Research and Development Board, Lerwick). Busta was the major landowner.

Scattald of the Ness of Hillswick

The scattald of the Ness of Hillswick, consisting of 412 acres, occupied the whole of the Ness of Hillswick south of Hillswick township (HU2772). Sometime after the year 1822 and prior to 1830 Thomas Gifford of Busta removed tenants from the Ness and enclosed it, separating it on the north by a wall from the rest of the scattald

of Hillswick (prior to this Hillswick and the Ness of Hillswick formed one scattald), and thus creating a grazing park. In 1856 a dispute arose between Gifford and Rev. Sutherland over grazing rights on the enclosed grazing park. Rev. Sutherland had begun to extend his stock beyond the number corresponding to his interest in the Ness. A summons of division of commonalty was raised in 1856 by Henry Cheyne, W.S., trustee for Arthur Gifford of Busta against Thomas, Earl of Zetland and others (Cheyne v Zetland CS46 34/1/1861). Commission was granted to William Edmondstone Aytoun, sheriff of Orkney and Zetland. In 1859 he appointed Roderick Coyne, civil engineer and surveyor in Edinburgh, to measure and make plans of the scattald (RHP532; also rough sketches - RHP6451, 6452). J.D. Miller of Orkney and John Sutherland Houston, a schoolteacher in North Yell, were chosen as valuers for the process, the cost of which came to £140 0s 9d. The scattald was divided in 1861.

Scattald of Nibon and Gunnister

The scattald, whose extent is not known, occupied the land to the south of Gunnister Voe (HU3172). The boundaries were obtained from the Busta map. Busta owned the majority of the land.

Scattald of North Roe

The scattald, whose extent is not known, was located in the north of the Mainland (HU3489). The scattald boundaries were obtained from the Busta map.

Scattald of Skea

The scattald, whose extent is not known, was located to the west of the town of Skelberry on the southern slopes of the Beorgs of Skelberry (HU3586). The boundaries were obtained from the Busta map.

Scattald of Sullom

The scattald, whose extent is not known, occupied the land to the west of the town of Sullom around Clothister Hill (HU3473). The boundaries of the scattald were obtained from the Busta map.

Scattald of Ura

The scattald of Ura, whose extent is not known, lay around the township of Urafirth (HU3078). It was divided in the same process as the scattalds of Hamar, Murrion, and Hillswick (see Hamar). The scattald boundaries can be obtained from the Busta map.

SANDSTING

Scattald of Aithsting

The scattald of Aithsting, consisting of 16,401 acres, occupied nearly all of the parish north of a line from Loch of Voxterby to Russa Ness (HU3354). In 1791 Mr. Ross of Sandsound petitioned the sheriff court to prohibit James Mitchell, also from Sandsound, from proceeding in finishing enclosing part of the Sandsound scattald

(located on the west side of Aithsting scattald) as a planticote to accommodate cabbage plants. Mitchell's enclosure not only resulted in a loss of scattald land to other proprietors, but it also inhibited the animals of the pursuer's tenants from passing through the land to get to the common. As a result of pressure from the sheriff court Mitchell took down part of the planticote wall so that the animals could pass through. It was ruled that neither party had the right to enclose part of the common without the consent of all proprietors or in the event of a legal division before the court (SC12/6/049 (3774)). In 1821 Andrew Grierson of Quendale and Arthur Gifford of Busta appointed James Tulloch, factor at Bixter, and Walter Dickson, tenant at Vementry, to perambulate the scattald belonging to Grierson's property of Clousta and Gifford's property of Uyeasound (north central part of Aithsting scattald) and to mark off the proportion of common effeiring to the respective aforesaid properties (SC12/53/11 Minute Division of the Scattald of Uyeasound and Clousta (Aithsting) Mar. 26 1821 (reported 1844)).

A summons of division of common was raised in 1874 for the whole of the Aithsting scattald by Andrew Grierson of Quendale against Lawrence, Earl of Zetland, and others (Grierson v Zetland - CS46 28/8/1878). Commission was granted to Andrew Mure, sheriff-substitute of Zetland. In 1874 he appointed George Mackenzie, land surveyor, to measure and make plans of the scattald (RHP3970, 3971, 3972, 3973, 3974; copy in Lerwick Sheriff Court). Robert Laing, a teacher in Gulberwick, and James Jaffrey, a farmer in Belmont, Unst, were chosen as valuers. The scattald was divided in 1878 at a total cost of £ 659.

Scattald of Browland

The scattald of Browland, consisting of 917 acres, occupied the hill ground between the Lochs of Voxterby and Murraster (HU2752). A summons of division of common was raised in 1856 by Thomas, Earl of Zetland, against James Greig of Sandsound and others (Zetland v Greig - CS46 90/1/1863). As well as Browland, the process included the scattalds of Garderhouse and West Houlland. Commission was granted to William Edmondstone Aytoun, sheriff of Orkney and Zetland. In 1858 he appointed Roderick Coyne, civil engineer and surveyor in Edinburgh, to measure and make a plan of the scattald (RHP6453, 6454). The valuers for the division were John S. Houston, schoolteacher in Yell and J.D. Miller from Orkney. The scattald was divided in 1863 for a total cost of £ 283. A map which includes the scattalds of Browland, Easter Skeld, Wester Skeld, Airds of Selivoe, Effirth, Garderhouse and West Houlland by Roderick Coyne (1857) exists in the Lerwick Sheriff Court.

Scattald of Culswick

The scattald of Culswick, whose extent is not known, occupied the Ward of Culswick and surrounding Hill ground (HU2645). Nearly all the boundaries of this scattald are shown on two plans dated 1856 (RHP6453, 6457). The scattald seems to have been owned solely by the Misses Irvine. It was surveyed by Thomas Irvine, land surveyor in Yell, in 1854 and the boundary measurements were given. The scattald covered approximately 2552 acres. The town of Culswick had been surveyed and divided into six farms by Thomas Irvine in 1850 (TI392/22; 394/2).

Scattald of Easter Skeld

The scattald of Easter Skeld, consisting of 2308 acres, lay on the hill ground of Foglatougs to the east of Gossa Water (HU3146). A summons of division of commonty was raised in 1856 by Andrew Umphray of Reawick against George Johnston of Westerwick and others (Umphray v Johnston - CS46 91/1/1863). As well as Easter Skeld, the process included the scattalds of Effirth, Airs of Selivoe or Grutton, and Wester Skeld. Commission was granted to William Edmonstone Aytoun, sheriff of Orkney and Zetland. In 1856 he appointed Roderick Coyne, civil engineer and surveyor in Edinburgh, to measure and make plans of the scattald (RH6453, 6457; copy in Lerwick Sheriff Court). John D. Miller of Orkney and J. Houston of Yell were the valuator in this process which cost a total of £908 8d. The process originally included Effirth, Grutton or Airs of Selivoe, Easter Skeld and Wester Skeld, but by 1860 the scattald of Easter Skeld belonged exclusively to the pursurer, Andrew Umphray of Reawick, who also owned the scattald of Reawick. Therefore no division of either Easter Skeld or Reawick was necessary (CS46 91/1/1863 Joint Minute 1862 p. 4). The map (Lerwick Sheriff Court) by Roderick Coyne, 1857, includes Easter Skeld, along with Wester Skeld, Airs of Selivoe or Grutton, Effirth, Garderhouse, West Houlland and Browland. The scattald of Effirth, Grutton and Wester Skeld were divided in 1863.

Scattald of Effirth

The scattald of Effirth, consisting of 935 acres, lay to the south of Effirth township on the hill ground of Moor Field and Crooie Hill (HU3150). It was divided in the same process as the scattald of Easter Skeld (see above). Plans of the scattald were made by Roderick Coyne (RHP6453, 6460, 6461).

Scattald of Garderhouse

The scattald of Garderhouse, consisting of 1258 acres, occupied the hill ground lying between Sand Water and Loch of Semblister (HU3248). It was divided in the same process as the scattalds of Browland and West Houlland (see Browland). Roderick Coyne made plans showing the scattald and scheme of division (RHP6453, 6455, 6457).

Scattald of Grutton

The scattald of Grutton (also known as Grutting or Ayres of Selivoe), consisting of 2733 acres, occupied the hill ground drained by the Burn of Selivoe (HU3049). It was divided in the same process as the scattalds of Easter Skeld (see above). Roderick Coyne made plans showing the scattald and scheme of division (RHP6453, 6457, 6459).

Scattald of Reawick

The scattald of Reawick (Raewick), whose extent is not known, extended southwards from Muckieward to Roe Ness (HU3244). Nearly all of the boundary of this scattald is shown on a plan dated 1856 (RHP6453). The scattald belonged solely to Andrew Umphray.

Scattald of Sand and Semblister

The scattald of Sand and Semlister, consisting of 1279 acres, extended from Hagmark Hill to Bekka Hill (HU3449). A summons of division of commonalty was raised in 1858 by Adam Dickson of Effirth against Joseph Leask of Sand (Dickson v Leask - CS46 107/7/1862). Commission was granted to William Edmondstoune Aytoun, sheriff of Orkney and Zetland. In 1860 he appointed Roderick Coyne, civil engineer and land surveyor in Edinburgh, to measure and make plans of the scattald (RHP3912, 3913, 6462; copy in Lerwick Sheriff Court). It was divided in 1862. J. Houston and Roderick Coyne served as valuers. The division cost a total of £205 2s 6d.

Scattald of West Houlland

The scattald of West Houlland, consisting of 1492 acres, occupied the hill ground between Scutta Voe and Rulma Water (HU2851). It was divided in the same process as the scattald of Browland and Garderhouse (see Browland). Roderick Coyne made plans showing the scattald and scheme of division (RHP6453, 6456).

Scattald of Wester Skeld

The scattald of Wester Skeld, consisting of 2141 acres, lay between the Stead of Culswick and Skelda Voe (HU2843). It was divided in the same process as the scattald of Easter Skeld (see Easter Skeld Skeld). Plans of Wester Skeld were made by Roderick Coyne (RHP6453, 6457, 6458).

TINGWALLScattald of Asta

According to the 1856 Valuation Roll (VR118-1856, Tingwall) William Hay was the sole owner of the small scattald of Asta and therefore there was no need for a division (see RHP10611).

Scattald of Berry

An 1831 map of the division of Berry scattald (also called the Ness of Westshore) near Scalloway, exists in the Lerwick Sheriff Court. On the map it says, "This is the map of divisions referred to in our report of division of this date." The two proprietors involved were Mrs. Charlotte Bolt of Berry and Mr. Scott of Scalloway. William Sievwright was the surveyor and John Grant was the valuator.

Scattald of Brunt Hamarsland

The scattald of Brunt Hamarsland, whose extent is not known, lay between Catfirth and the Loch of Girlsta (HU4351). It is mentioned as lying adjacent to the southern boundary of the scattald of South Nesting (Nesting parish, see South Nesting scattald). An 'Excerpt from Decree of Declarator 26 Nov. 1850', outlines the boundaries of Brunt Hamarsland, Girlsta, and Chalderness scattalds (ADM- 'Excerpt...1850' by William Sievwright). In 1854 Henry Cheyne (a Shetlander and an Edinburgh lawyer) sole owner of the

scattald of these three townships, wrote to Andrew D. Mathewson, surveyor in Yell, asking him to measure and make a 'cheap plan' of the contents of his scattald (ADM - H. Cheyne to A.D. Mathewson, 1854).

Scattald of Burwick

The scattald, whose extent is not known, lay around the Hill of Burwick (HU3941). In 1874 a submission for division was entered into by G.H.B. Hay of Hayfield, Charles Irvine of Houlland and Mary E. Irvine of Bellevue. The division was to involve both Burwick and Houlland scattalds but L.F.U. Garriock, owner of Berry scattald and also sole proprietor of Burwick, claimed that the lands of Burwick had a distinct and separate scattald of their own and had never been scatted with Houlland, to which the proprietors of Houlland disagreed. A compromise line separating the lands and scattald belonging to the Houlland scattald from L.F.U. Garriock's lands was finally agreed upon (SC12/53/13 p. 159). A map of the scattald of Houlland was made by Joseph Irvine in 1875 (Lerwick Sheriff Court; RHP6463 - a plan showing part of the boundary adjacent to the scattald of South Whiteness).

Scattald of Dale

The scattald of Dale (Deal), consisting of 1361 acres, extended around the head of Dales Voe, including the Hills of Herrislee, Tagdale and Dale (HU4342). A summons of division of commonalty was raised in 1830 by William Hay, merchant in Lerwick, against Sir Arthur Nicolson and others (Hay v Nicolson - CS239 H/46/7). This process was allowed to lie over until 1854 when Hay raised a summons of transference against Thomas, Earl of Zetland, and others. Commission was granted to William Sievwright, writer in Lerwick. In 1856 he appointed Thomas Irvine, land surveyor, to measure and make a plan of the scattald (RHP3922, 10611). Peter Laurenson and William Merrylees were the valuers. The scattald was divided in 1858 (TI 394/8).

Scattald of Girlsta

The scattald of Girlsta (Geraldsta), whose extent is not known, lay to the east of the scattalds of Weisdale and South Whiteness to the north of Voe-head (HU4251). Parts of the boundary of the scattald are shown on several plans (RHP3934, 4049) (see Brunt Hamarsland).

Scattald of Griesta

The scattald, whose extent is not known, lay on the eastern flanks of the Hills of Griesta (HU4143). G.H.B. Hay of Hayfield owned all of the townlands pertaining to the scattald of Griesta (VR118-1856, Tingwall; SC12/53/13 p. 160).

Scattald of Hamarsland

The scattald of Hamarsland (including North and South Hamarsland, Easthouse, Vatster and Wadbister), consisting of 889 acres, occupied the Wadbister peninsula to the east of the scattald of

Laxfirth (HU4348). In 1830 the mutual scattald boundary between Hamarsland and Laxfirth was perambulated and march stones were placed along it in order to do away with all disputes (D6/120/9). In 1848 a summons of division of commonalty was raised by Charles Hay of South Hamarsland against James Mouat of Wadbister and others (Hay v Mouat - CS46 116/3/1854). Commission was granted to Robert Bell, sheriff-substitute of Zetland. In 1853 he appointed Thomas Irvine, land surveyor, to measure and make a plan of the scattald (RHP9119, 508). Joseph Leisk, tacksman of Uya, and Fleming Laurenson, jailkeeper at Fort Charlotte, were the valuers. The total cost of the process which was completed in 1854 was £ 139 3s 10d (TI 394/17).

Scattald of Houlland

A plan dated 1875 by Joseph Irvine is located in the Lerwick Sheriff Court. Houlland consisted of 330 acres. It was divided by submission entered into by G.H.B. Hay of Hayfield, Charles Irvine of Houlland and Mary E. Irvine of Bellevue. William Sievwright submitted the agreement and submission concerning Houlland and Burwick scattalds to the sheriff court to be registered in 1874. Andrew Mure, sheriff-substitute of Zetland, was chosen as arbiter and he in turn appointed Joseph Irvine from Kirkasetter, Tingwall as surveyor and Messrs. Laing from Gulberwick and Fleming Laurenson from Lerwick as valuers. After a disagreement, the scattald of Burwick was recognized as the sole property of L.F.U. Garriock and as such, was excluded from the division. The decree arbitral regarding Houlland scattald was pronounced and registered in the sheriff court books of Lerwick, August 1875 (SC12/53/13).

Scattald of Laxfirth (including towns of Walster, Bailister, Linkster, Swinister, Strand and Presgarth)

The Scattald of Laxfirth, whose extent is not known, lay on the hill ground around Longa Water to the northwest of Laxfirth township (HU4147). Part of the boundary of the scattald is shown on plans made for the division of South Whiteness scattald (RHP3934, 6464, 11212). In 1820 a minute by the heritors of North Laxfirth, was drawn up in which the four proprietors agreed to a division of a piece of the common lying adjacent to the town dykes of Strand, North and South Laxfirth, Swinister and Linkster. Arbiters were to be chosen and James Greig, writer in Lerwick, was appointed to draw up a submission (D6/43/1). In 1830 the heritors of Laxfirth, Swinister, and others, and those of Hamarsland, Vatsetter and others, had their mutual scattald boundary perambulated and proper march stones were placed along the boundary to do away with disputes (D6/120/9). In 1837 William Hay of Laxfirth and James Goodlad of Swinister, proprietors of the said scattald, wrote a deed of agreement (for which William Sievwright acted as their procurator) in order to supercede more expensive measures for the division of Laxfirth scattald. Hay and Goodlad agreed that Mr. Gilbert Spence of Hamar should survey and measure the scattald and that John Grant and William Merrylees should be appointed as valuers. The deed of agreement was registered in the Lerwick Sheriff Court books in 1840 (SC12/53/11). A map of Laxfirth farm exists among the Gardie map collection. The farm consisted of 284 acres and the pasture of 1002 acres. It would appear that the farm was created after 1840 and that it covered

the whole scattald, plus some (NRA (Scot) 0450 'Map of the farm and pasture lands of Laxfirth, Tingwall' by R. Laing, N.D.).

Scattald of North and South Weisdale

The scattald of North and South Weisdale, consisting of 8,009 acres, occupied the hill ground on both sides of the valley of Kergord from Loch Strom to the parish boundary at Hag Mark Stone (HU 3955). In 1793 Mr. James Scott of Scalloway and Barbara Scott, widow of the deceased John Leslie of Ustaness, petitioned the sheriff court to prohibit John Bruce of Catfirth from proceeding to finish enclosing a large piece of ground belonging to the scattald of the room of Schurron which formed part of the larger scattald of Weisdale. Bruce's enclosure would result in a loss of scattald land to the other proprietors. A dispute arose over whether the enclosure was located in Nesting or Weisdale parish and as a result of submission was made in order to clarify the Nesting-Weisdale parish boundary. An interdict was brought against Bruce for enclosing part of the undivided commonty but Bruce's defence stated that proprietors had always enclosed and improved their properties when convenient. The proprietors still maintained that the scattald should remain common until the heritors agreed on a division. The sheriff recommended that the involved parties fix their boundaries (SC12/6/063 (5430)). However, it was not until 1848, when David D. Black (a resident of Breckin, Scotland), who had recently bought Kergord, wrote to James Greig with a proposal for the clearance and division of the Weisdale area. "Meanwhile, I am clear for warning out the ten tenants...and I am as clear for pursuing an action of division of the commonty..." (D6/223/5). In that same year a summons of division of commonty was raised by Archibald Horne, trustee for the sequestrated estate of Messrs. Hay and Ogilvy against David Black of Hoy, Thomas, Earl of Zetland, and others "...so that each heritor may receive his just and fair share thereof, and be at liberty without question to enclose, drain, cultivate and improve the same..." (CS46 12/10/1860 Summons 1848). Commission was granted to William Sievwright, writer in Lerwick. No proceedings took place under that commission and with the death of several parties, Arthur Gifford of Busta brought an action of transference in 1853. Again the commission was granted to William Sievwright. In 1857 he appointed Thomas Irvine, land surveyor, to measure and make a plan of the scattald (RHP512, 4048, 4049, 5570). Joseph Leisk of Uya and Thomas Irvine served as valuers. The scattald was divided in 1860 at a cost of £ 359 10s 6d.

Scattald of North Whiteness

The scattald of North Whiteness, consisting of 570 acres, lay on the ridge between the Lochs of Hellister and Strom (HU3949). A summons of division of commonty was raised in 1868 by Thomas Gifford of Busta and Magnus Irvine of Strombridge against Thomas, Earl of Zetland (Gifford v Zetland - CS46 25/3/1875). The process included the scattald of South Whiteness. Commission was granted to Andrew Mure, sheriff-substitute of Zetland. In 1871 he appointed John S. Houston, land surveyor, to measure and make plans of the scattalds (RHP3931-9, 6463-4; copy in Lerwick Sheriff Court). They were divided in 1875. "The great object of every division is to concentrate the lands allotted to each proprietor and to lay them off in

such a manner as will facilitate inclosing and improvement..." (CS 46 25/3/1875 Objections for Lord Dundas 1870). Thomas Irvine of Midbrake, Adam Dickson of Vementry, Robert Laing of Gulberwick and James Jaffrey from Belmont served as valuers. The cost of the division came to £435 18s 10-1/2d.

Scattald of South Whiteness

The scattald of South Whiteness, consisting of 2291 acres, occupied the hills overlooking Whiteness Voe, between Maggie Black's Loch and North Water of Wormaldale (HU4044). It was divided in the same process as the scattald of North Whiteness (see North Whiteness).

Scattald of Sweenister (Swinister)

The scattald of Sweenister (including the scattalds of Linster and Bailister), consisting of 303 acres, lay to the north of the Burn of Strand (HU4246). A summons of division of commonalty was raised in 1871 by James Taylor of Bailister against Charles Duncan, writer in Lerwick, and others (Taylor v Duncan - CS46 26/8/1872; also see Laxfirth scattald; D6/43/1, 120/9; SC12/53/11). However, the six parties involved decided to bypass a lengthy legal action since none of them objected to the boundaries and since the scattalds were "...of small value and little able to afford the expense of a commission from the court..." (CS46 26/8/1872 Minute of Agreement 1871). The parties entered into a Minute of Agreement whereby they agreed to appoint John S. Houston, schoolteacher in Yell, to divide the scattald. The heritors then moved the Lord Ordinary to ratify, approve and confirm the lines of the march boundaries, divisions and allocations and to ordain the same to take full effect. The process was completed in 1872. John Houston made a plan of the scattald showing a scheme of division (missing; parts of boundary shown on RHP3934, 3932, 6463, 6464).

Scattalds of Tronafirth, North Califf, Mousewell, Brewick, and Houbie

This scattald occupied a peninsula that lay between Laxfirth and Dales Voe (HU4446). A portion of this scattald was separated from the rest and divided among the proprietors of the above rooms according to the rental marks at about the same time as in Houlland, North Yell (c. 1796). Mr. Laurence Leisk, land surveyor in Lerwick, was responsible for the division. There was no regulation restricting the possession of the scattald and no possession was taken of the enclosed section until about 1827 when a portion was enclosed. Stones were set up on the enclosure to mark each heritor's proportion (Spence v Dundas - CS46 136/3/1840 Proof 1835).

Scattald of Upper Scalloway

The scattald of Upper Scalloway lay to the east of the town of Scalloway (HU4240). Its sold owner was William Hay (VR118-1856, Tingwall). A map of Dale, Veensgarth, Asta and Scalloway scattalds exists in the Scottish Record Office (RHP10611).

Scattald of Uradale

The scattald of Uradale (including Easterhoull, Sunderbanks, and Tow), consisting of 713 acres, lay on the hill ground surrounding Uradale township and rising eastwards to Flossy Loch (HU4138). A summons of division of commonalty was raised in 1840 by Peter Lesslie of Northness against Thomas, Earl of Zetland, and others (Lesslie v Zetland - CS46 39/3/1842). Commission was granted to William Sievwright, writer in Lerwick. In 1841 he appointed Gilbert Spence, land surveyor, to measure and make a plan of the scattald (RHP6465, 6466). It was divided in 1842. William Merrylees and Peter Tait were the valuers for the process, the cost of which was £102 1s 8d. In 1884 Mrs. Helen Leslie/Duncan of Lerwick, daughter of the late Peter Leslie (or Lesslie) petitioned the Lerwick Sheriff Court to subdivide the scattald allotment which she and John Irvine now jointly owned as a result of land being disposed by Gilbert Irvine, John's father. James W. Hepburn surveyed the allotment of 101.6 acres and the cost of the process was £30 (SC12/6/131 - Tow, Sundibanks, Uradale, Easterhoull, Tingwall 1884-5). Two maps of the subdivision of the allotment in Uradale scattald exist among the process (Lerwick Sheriff Court).

Scattald of Vinsgarth

The scattald lay to the west of the Hill of Herristee (HU4344). By the mid 1800s it had been laid out as a large arable farm along with Laxfirth by William Hay (H. Smith, 1972, 208).

UNST

A map of the scattald marches of Unst was compiled by the late Professor A.D. O'Dell from the Scatt Records and can be found in his book, The Historical Geography of the Shetland Islands, Lerwick, 1939, 264.

See also: Johnston, A.W., 'Scattald Marches of Unst', Viking Club, Old-Lore series, iii, 100-2, 162-3, 217-9; iv, 33-6, 91-3, 192-3; v, 125-9; and NRA (Scot) 0445, p. 1; the 1731 Baillie Court Book, a copy of which may be found among the Garth estate collection, Bressay; the 1st edition Ordnance Survey map; and a 1969 map of Mineral Rights Ownership, among the Garth map collection.

Scattald of Baliasta (Mid Parish)

The scattald of Baliasta (also known as Mid Parish - RHP6470), consisting of 4807 acres, occupied the hill ground extending southwards from Milldale Burn to White Hagmark and then eastwards to the Wick of Hagdale (HP5909). In 1836 interdicts were brought against William Henderson of Petister, and Thomas Edmondston of Bunes by Mrs. Mouat Cameron, for making enclosures on the scattald (Garth - 4 April 1836 G. Duncan to J. Phin). The following year William Henderson prosecuted a division of commonalty against Mrs. Mouat Cameron of Garth and others (Henderson v Cameron - CS46 22/4/1850), to "... thereby put an end to a system of individual appropriation of a character so partial and so extensive as to threaten the entire exclusion of smaller heritors from any participation in the common subject..." (Garth - 16 Feb. 1837 Answers for William Henderson).

Commission was granted to Andrew Duncan of Tow. In 1846 he appointed Andrew Dishington Mathewson, land surveyor, to measure and make plans of the scattald (RHP237/1-3, 6467). Copies were lithographed by Fr. Schenck, Edinburgh (Lerwick Sheriff Court). It was divided in 1850. In addition to the maps in the Scottish Record Office, a very good map exists among the Thomas Irvine collection (TI 389/25), and also among the Garth maps (Garth - Division of the Scattald of Baliasta (Unst), 1848). Thomas Irvine and Joseph Leisk were the valuers. The division cost £ 218 18s 11d.

Scattald of Burrafirth

The scattald of Burrafirth, whose extent is not known, extended northwards from Milldale Burn to Herma Ness (HP6015). By 1825 the Edmondstons owned 16 of the 24 merks in the town of Burrafirth (Garth - List 1825). A plan made for the division of the scattald of Baliasta shows the mutual boundary between the two scattalds (RHP6467). In 1870 an excambion occurred between the Earl of Zetland and the Edmondston family and soon after David Edmondston cleared the area for a sheep farm. The scattald was owned solely by the Edmondstons of Bunes.

Scattald of Caldback

The scattald of Caldback, whose extent is not known, lay immediately to the south of the scattald of Baliasta and extended as far as the Loch of Watlee (HP5906). It is not known when Caldback was divided. The three major owners of the scattald were the Garth estate, the Edmondstons of Bunes, and the Earl of Zetland.

Scattald of Clibberswick

The scattald of Clibberswick, consisting of 495 acres, extended eastwards from Haroldswick to The Nev (HP6512). A summons of division was raised in 1861 by Mrs. Ursula Edmondston of Bunes against Thomas, Earl of Zetland and others (Edmondston v Zetland - CS46 85/7/1864). Commission was granted to William Edmondstoune Aytoun, sheriff of Zetland. In 1862 Roderick Coyne, civil engineer and surveyor, was appointed to measure and make plans of Clibberswick and Northwick (RHP6468, 6469, 9126; copy in Lerwick Sheriff Court). Both scattalds were divided in the same process in 1864. Joseph Leask of Uya and James Jaffrey of Belmont were the valuers. A total area of 1140 acres was divided at a cost of £ 476 19s 0d.

Scattald of Cliff

The scattald of Cliff, whose extent is not known, lay to the east of the Loch of Cliff (HP6011). The mutual boundary between Cliff and the scattald of Haroldswick is recorded on plans made for the division of the latter (RHP6468, 6470). By the 1828 rental the scattald was owned exclusively by Edmondston of Bunes (SRO-RH9/15/179 1828 Rental by Gilbert Duncan). By the latter part of the nineteenth century Cliff scattald was a sheep farm.

Scattald of Clivocast (Uya and Murrister)

The scattald of Clivocast, whose extent is not known is shown

on a 'Copy plan of division of Clivocast Scattald', dated 1823, by William Sievwright, divider. There are further letters by him on the same subject, 1828-9 (NRA(Scot) 0445, p. 4). In 1816 Thomas Mouat wrote some 'Notes...on preliminaries of Division of Clivocast and Murrister' in which he considered the consent of all parties, the boundary and extent of the commonty, the necessity of a competent divider and the legal considerations of counter claims (NRA (Scot) 0450/2319 Notes by Thomas Mouat...1816). But it was not until 1823 that a discussion concerning the division of Clivocast scattald was begun among the five proprietors. The division seemed as though it was going to be carried out by an agreement of some kind. In a letter to William Sievwright possibly written by Thomas Leisk in 1828 he agreed to a division. "Seeing that all parties are likely to consent to a division, from what you say, it would be needless to sink money in the Court, competent as you call it..." (D12/97). Mr. Gardner instigated the division. Magnus Winwick and William Sievwright were employed to measure the scattald land. It would appear that Uya was measured and surveyed but it is uncertain whether the scattald was ever divided (D12/97/1-8).

Scattald of Collaster (Sellaster)

The scattald was located around the town of Collaster between the sea and a steep ridge of land that paralleled the coast (HU5706).

Scattald of Colvadale

The scattald of Colvadale, whose extent is not known, lay between the coast and the Hill of Colvadale (HP6205). A plan was made of it along with the scattalds of Wadbister, Snarravoe, Wick, Underhoull, Sellasetter, Caldback, Sandwick and Framgord by J.D. Miller, surveyor, in 1871. (At the time of the writing of Dr. Adams' book, this map still existed in the Lerwick Sheriff Court, however by 1978 it was missing). It is not known when it was divided.

Scattald of Haroldswick

The scattald of Haroldswick, consisting of 1173 acres, extended northwards from Nikka Vord to Ungirsta (HP6211). A summons of division of commonty was raised in 1833 by William Spence, surgeon in Lerwick, against Lawrence, Lord Dundas, and others (Spence v Dundas - CS46 136/3/1840). Commission was granted to Andrew Duncan, sheriff-substitute of Zetland. In 1835 he appointed William Matheson, land surveyor, to measure and make a plan of the scattald (RHP6470, 14992; also named on RHP273/2, 6467). Sinclair Thomson, a farmer from Dunrossness, and John Grant, a farmer in Lerwick, were the valuers. It was divided in 1840 at a cost of £ 79 8s 6d.

Scattald of Heogland and Moula

The scattald of Heogland and Moula, whose extent is not known, lay southwards from Gallow Hill to Point of Burkwel (HP5700). The scattald was owned exclusively by William Mouat of the Garth estate (Garth - List of Proprietors and their merks land in the Island of Unst...1825).

Scattald of Hoversta and Mailand

The scattald of Hoversta and Mailand, whose extent is not known, lay between the sea and Loch of Hoversta (HP6001). By 1852 the Garth estate owned the whole scattald as a result of an excambion and a sale of land (Garth - 1825 List of Proprietors...; 1852 List of Title Deeds...).

Scattald of Muness

The scattald of Muness, whose extent is not known, occupied the Muness peninsula (HP6200). This scattald was also owned solely by the Garth estate (Garth - 1825 List of Proprietors...).

Scattald of Northwick (Norwick)

The scattald of Norwick, consisting of 1140 acres, extended northwards from Valsgarth to the Noup (HP6414). It was divided in the same process as the scattald of Clibberswick (see Clibberswick). A plan was made showing Norwick and the other scattalds in the north-east of Unst (RHP6468; copy in Lerwick Sheriff Court). It was divided in 1864.

Scattald of Queyhouse

The scattald of Queyhouse (Kewhouse), whose extent is not known, occupied the Ness of Queyhouse (HP6012). A plan made for the division of Haroldswick shows part of the boundary of Queyhouse (RHP 6470). It is not known when this scattald was divided. This small scattald was quite possibly enclosed at one time from another scattald (e.g. Cliff). The area paid no scat.

Scattald of Sandwick and Framgord

The scattald of Sandwick and Framgord, whose extent is not known, occupied the hills surrounding Sandwick Bay (HP6102). It is not known if this scattald was divided. By 1852 the Garth estate had bought up most of the land and they held 36/40 merks in Framgord and 55/73 merks in Sandwick, the remainder being held by Lord Dundas (Garth - 1825 List of Proprietors...; 1852 List of Title Deeds...).

Scattald of Sellasetter

The scattald of Sellasetter, whose extent is not known, lay on the steep slopes rising to the east of Newgord township (HP5806). It is not known if it was divided (see Collaster).

Scattald of Skaw

The scattald of Skaw, whose extent is not known, lay in the extreme northeast of Unst on the hills draining into the Burn of Skaw (HP6416). In 1825 William Mouat proposed an excambion to Lord Dundas. He agreed and the Garth estate exchanged 20 merks in Underhoul for 23 merks in Norwick, 7 merks in Skaw and 1 merk in Vellie. The Garth estate now was sole owner of Skaw (Garth - List 1825, 19 Jan. 1825 Annsbrae William Mouat to George Veitch). The

lands were being enclosed from this scattald by William Mouat in 1834 (GD236/22/1/7). The boundary of the scattald is shown on a plan, dated 1860, made for the division of the scattalds of Clibberswick and Norwick (RHP6468).

Scattald of Snabrough

The scattald of Snabrough, whose extent is not known, lay on the hill ground between Brei Geo and Loch of Stourhoull (HP5702). There is no information concerning its division. By 1852 the Garth estate owned 34/36 merks in Snabrough, the remainder being held by Lord Dundas (Garth - 1852 List of Title Deeds...).

Scattald of Snaravoe

The scattald was owned jointly by the Garth estate and the Earl of Zetland. Only some letters addressed to Thomas Irvine in 1858 regarding a dispute over the Wadbister-Snaravoe scattald marches have been found thus far (TI 389/88).

Scattald of Sotland

(see Ungirsta)

Scattald of Sound (Shore)

The scattald of Sound, whose extent is not known, lay to the north of Gallow Hill surrounding the township of Uyeasound (HP5801). The scattald was surveyed in 1838 (ADM-1838 Survey of Sound scattald from James Mouat). By 1852 the Garth estate had acquired all the lands in the scattald (Garth-1852 List of Title Deeds...).

Scattald of South the Voe

The scattald of South the Voe, whose extent is not known, lay to the south of Balta Sound adjacent to the scattald of Baliasta (HP6207). The mutual boundary between these two scattalds is shown on a plan made for the division of Baliasta (RHP237/1-3, 6467). It is not known if the scattald was divided. In 1870 a 'Report and Valuation of South the Voe Scattald and farm of Greenroads...' was written by James Jaffrey, farmer at Belmont, acting on behalf of the Edmondston estate and the Garth and Annsbrae estate (Edmondston).

Scattald of Swinna Ness

In 1816, the four heritors of the Ness, Lord Dundas, Thomas Mouat, Thomas Edmondston and Gilbert Spence, agreed to divide the 98 acres of the Ness and they appointed Magnus Winwick, school-master in Unst, to divide the Ness and to make a plan and a report. "...it being greatly for the interest of all parties to have the said Ness divided in a fair and equitable manner and that speedily, and without incurring the heavy expence of a process of division..." (SC12/53/8 Minute of Consent to Divide Swinna Ness, Unst 1816, p. 243). The heritors also agreed to construct walls along the lines and marches of division at mutual expense upon completion of the division (SC12/53/8, p. 243).

Scattald of Underhoull

The scattald of Underhoull, whose extent is not known, occupied the southern tip of the Valla Field ridge between the coast and Loch of Watlee (HP5804). It is not known if this scattald was divided. The Earl of Zetland and the Garth estates were the major heritors.

Scattald of Ungirsta (Scotland)

The scattald of Ungirsta, consisting of 708 acres, lay on the hill ground rising to the east of Burra Firth to Houslfiel (HP6214). A plan, made for the division of the scattald of Haroldswick, shows the southern boundary of Ungirsta (RHP6470). The division of Sotland is discussed in a letter written by Willaim Mouat to Thomas Edmondston in 1823. The heritors of the scattald were Thomas Edmondston, Lord Dundas, William Spence, Mr. Mouat and Magnus Anderson. It was suggested that Mr. Turnbull and Thomas Irvine serve as arbiters and that Mr. Winwick and William Sievwright act as surveyors. The scattald was divided in 1825 among three of the five original owners (Edmondston, Dundas, and Spence) by William Sievwright. By the 1830-40 rental these three were the only owners listed for the scattald. Therefore, an excambion or sale of land must have occurred prior to the division (Edmondston - 14 Dec. 1823 William Mouat to Thomas Edmondston). A very detailed map of Ungirsta (1825) exists in the map collection at the Scottish Record Office (RHP14989).

Scattald of Uyea and Murrister

The scattald of Uyea and Murrister, whose extent is not known, occupied the hill ground rising to the east of Clivocast (HP6000). A dispute concerning a claim that proprietors of Uyea scattald had a right to cut and carry peats from Clivocast scattald came before the sheriff court c. 1764-72, c. 1800-1801 and 1846 (NRA (Scot) 0445, p. 3). (See Clivocast)

Scattald of Wadbister

The scattald of Wadbister, whose extent is not known, occupied the hill ground surrounding Belmont (HP5601). The Thomas Mouat family had owned the whole scattald since 17 March 1775 when William Mouat disposed of it to his son. In 1779 they "...set out the Dike of Wadbister on the west and thereby enclosed the said Ness by a strong Dike intended to be sheep proof..." (NRS(Scot) 0450/2259 1815 Belmont Memorial by T. Mouat regarding Wadbister).

Scattald of Wick

The scattald of Wick, whose extent is not known, occupied the hill ground south of Lunda Wick (HP5603). It is not known if this scattald was divided. The Thomas Irvine papers contain a sketch of the scattald along with a description (TI 389/110).

WALLS AND SANDNESSScattald of Footabrough

The scattald of Footabrough (Futteburgh), whose extent is not known, was situated to the north of the Voe of Footabrough and included the rooms or towns of Watsness, Swinister, Goster, Bakka (Bacca), Gord, Turdale, Finnigarth, Skarpigarth and Footabrough (HU1850). A summons of division of commonty was raised in 1868 by the Rev. Archibald Nicol, minister of Walls and Sandness parish, and others, against Robert Scott of Malby and others (Nicol v Scott CS250/5036, summons only). A plan was made of the commonty in 1868 (missing). Only a summons survives in this process. Among the Thomas Irvine papers a document written in 1868 lists the outsets on the scattald, when they were enclosed and whether they should be included in the scattald division (TI 394/31).

Scattald of Walls and Sandness

The scattald of Walls and Sandness, consisting of 12,963 acres, lay west of the conterminous parish of Aithsting and Sandsting. The boundaries in the adjacent parish of Sandsting were judicially fixed by a decree on December 20, 1862 and the marches of Aithsting, presently being considered in the court of session, had been accepted by the proprietors of Walls and Sandness as the boundaries. The scattald was divided by submission, entered into by the proprietors of Walls and Sandness. Andrew Mure, sheriff-substitute of Zetland, was appointed as sole arbiter under the deed of submission and he in turn appointed J.W. Hepburn as surveyor, Robert Laing, from Gulberwick and John Low from Asta, as valuers. A dispute as to whether the whole was one scattald or several arose but it was decided that Walls and Sandness could be considered one scattald. The decree arbitral was registered in the sheriff court books of Lerwick in 1877 (SC12/53/13, pp. 205-255). The total cost of the division was £593 4s 6d and the parties were to pay their share to William Sievwright, solicitor and agent in the submission. An extract and J.W. Hepburn's report appears among the sheriff court processes for 1891, listing the proprietors and the proportion of land allotted to them (SC12/6/145 Division of Walls, Sandness). A map of the scattald division of Walls has recently been found in the Lerwick Sheriff Court (1978).

YELLScattald of Brough (Papil)

The scattald of Brough, consisting of 4014 acres, lay to the south of Cullivoe and extended across Yell from coast to coast north of a line through Gossa Water and Tittynans Hill, which was the mutual boundary between the scattalds of Brough and Sandwick (HP5100). In 1818 and again in 1833 the town dykes of Cullivoe were extended outwards to enclose some of the scattald. This encroachment of the scattald served as a method of increasing the arable potential of the townlands (Garth - 'A Plan for Cullivoe...1818 Nov.'; 'A Rough Sketch of the Town Hill Dykes of Cullivoe...Jan. 1833'). A summons of division of commonty was raised in 1867 by Mrs. Margaret Mouat or Cameron of Garth against Thomas, Earl of Zetland and others

(Mouat v Zetland - CS250/3929, summons only; CS46 19/4/1872). As well as Brough, the scattald of Sandwick was included in the process. Some of the defenders and the pursuer had arranged for a division by deed of submission. They requested the other defenders to join in this to privately arrange to fix the scattald marches and to implement the division, but the others refused or delayed to do so and therefore, it was necessary to institute this action. Commission was granted to Andrew Mure, sheriff-substitute of Zetland. In 1868 he appointed G. Cooper Roger, land surveyor, to measure and make a plan of the scattald (RHP3952, 9133, 9149, 9155, 9156, 10613, 14995; Garth - Scattald of Brough, N. Yell, by G.C. Roger 1867). George Keith, a farmer in West Sandwick, Yell, and James Jaffrey, a farmer in Unst, were the valuator. A total area of 4014 acres in Brough and 6150 acres in Sandwick were surveyed and divided at a total cost of £817 14s 4d. The division was completed in 1872.

Scattald of Cuppister and Ulsta

The scattald was located on the southwest tip of the island of Yell (HU4780). The Scottish Record Office has recently acquired a map called 'Map of the Commonities or Scattalds of Ulsta and Strand now called West Yell'. The map shows the Ulsta and Strand scattald boundaries but there is no hint of a division having occurred, (RHP 38133).

Scattald of Gravaland

A summons of division was raised by Rev. William Watson, minister of Fetlar, against Mrs. B.G.O.H. Robertson. William Sievwright was the commissioner with Thomas Irvine as surveyor. The scattald was perambulated in 1857, surveyed in 1858, and divided in 1859. Among the Thomas Irvine papers, is a 'Report of Division and placing of marches 1859', for the scattald of Gravaland at a cost of £92 15s 3-1/4d. According to this report, the scattald was 1836 acres in size. Some sketches of the scattald are among the Irvine papers (TI 390/45, 392/16, 394/2).

Scattald of Houlland

The scattald of Houlland, consisting of 3937 acres, occupied the hill ground in the northwest of Yell around Gloup Voe (HP5002). In 1776 a large enclosure was made upon the scattald of Houlland near the town of Houlland. This had been arranged between Mr. Balfour, factor for Sir Laurence Dundas, and the other heritors in 1774. The land thus enclosed was then divided among the heritors according to their holdings. "...the Enclosure was not intended as a definite or final Enclosure, but as the commencement of an intended progressive plan of inclosing and appropriation of the scattald". Individual heritors had at different times enclosed other portions of the commons since the final enclosing in 1796 (Spence v Dundas - CS46 136/3/1840 Proof 1835 for Haroldswick; D6/2/8). An unsuccessful attempt was made in 1833 to settle the division of Houlland scattald out of court. Letters were written by William Mouat, J. Johnston and James Spence to Thomas Irvine regarding the division and a Mr. William Pole was chosen to measure the scattald (TI390/25). The division finally went through the court of session. A

summons of division of commonalty was raised in 1848 by Robert Spence of Windhouse against Thomas, Earl of Zetland and others (Spence v Zetland - CS46 35/12/1858). Owing to changes in proprietorship, no active proceedings were had in the process until 1854, when the process was wakened and commission was granted to William Sievwright, writer in Lerwick. In 1855 he appointed Andrew D. Mathewson, land surveyor in Lerwick, to measure and make a plan of the scattald (RHP513, 4047). It was divided in 1858. Among the Garth map collection are two maps (N.D.) of the scattald of Houlland. Joseph Leisk and Laurence Sinclair were chosen as valuers. The division was completed at a total cost of £251 8s 9d.

Scattald of Lumbister

The scattald of Lumbister, whose extent is not known, lay to the south of Evra Loch (HU4796). It is mentioned as being adjacent to the scattald of Sandwick in the latter's summons of division (Mouat v Zetland - CS46 19/4/1872). It is thought to have been considered part of Windhouse scattald for the purposes of division (see Windhouse).

Scattald of Neepoback (Nipoback) or Burravoe

In May 1828, William Mouat of Garth sent a petition to the sheriff court against Robert Bruce of Burravoe (SC12/6/075 (6290) Petition of W. Mouat v Bruce). Mouat accused Bruce of enclosing part of the scattald. Each proprietor's enclosures were measured by A.D. Mathewson in 1831. The cost of the petition was £30 19s 10d and it was decided that only a complete division of the commonalty could solve the issue. In 1856 Robert Bruce of Burravoe applied to the sheriff court to have George Henderson, merchant at Brough, stopped because he was enclosing parts of the undivided scattald. When Henderson proceeded to enclose and build dykes Bruce applied for an interdict against him (SC12/6/109) Robert Bruce v. G. Henderson). In 1859 the commonalty was surveyed by Thomas Irvine, with William Sievwright as commissioner, Joseph Leisk and Laurence Sinclair as valuers. It was divided in about 1860 at a cost of £186 2s 5-1/2d. The scattald consisted of 3692 acres (TI 390/48; 394/2). A map of Ulsta and Strand scattalds indicates the proprietor's share in the Nipoback scattald (RHP 38133).

Scattald of Otterswick (or Gossaburgh) and Wilhelmina Hoga

The scattald of Otterswick, whose extent is not known, lay to the south of the scattald of Reawick on the hills surrounding Otterswick Bay (HU5085). The mutual boundary between the scattalds of Otterswick and Reawick is shown on a plan made for the latter's division (RHP236). A sketch and note on Otterswick and Wilhelmina scattald exists in the A.D. Mathewson collection dated 1873. Between 1879 and 1886 an action was brought before the sheriff court by Charles O. Robertson of Gossaburgh against Magnus Clark of Holygarth and others regarding the division of Otterswick and Wilhelmina commonalties (SC12/6/126). The action fell asleep and was wakened in 1885 (D12/179/1 Division of Otterswick and Wilhelmina Hoga 1885). A map of Ulsta and Strand scattald (RHP 38133) shows Wilhelmina Hoga and a 'Report of Division of Reafirth and

Gardie' by Thomas Irvine, 1863, includes a description of Wilhelmina scattald marches dated 1667 (SC12/53/12, p. 117). It is not known if the division was ever completed.

Scattald of Reafirth

The scattald of Reafirth, consisting of 6181 acres, extended southwards from Mid Yell Voe to Stoura Scord and the Ness of Queyon (HU5088). A summons of division of commonry was raised in 1833 by Charles Ogilvy, merchant in Lerwick, against Mrs. Barbara Ogilvy Robertson of Gossaburgh and John Ogilvy of Quarff and others (Ogilvy v Robertson - CS46 87/8/1848). Commission was granted to Andrew Duncan, sheriff-substitute of Zetland. In 1837 he appointed Andrew D. Mathewson, land surveyor in Lerwick, to measure and make a plan of the scattald (RHP236), but since A.D. Mathewson was not qualified and since he had a vested interest in the scattald, Mr. Alex Davidson, a land surveyor in Thurso was appointed surveyor. John Forsyth, a shepherd in Mid Yell and William Merrylees, a farmer in Gremister, were the valutors. The scattald was divided in 1848 at a cost of £265 7s 3d. In 1863, a 'Report of Division of Scatholds of Reafirth and Gardie' by Thomas Irvine, was registered in the Register of Decrees (SC12/53/12, p. 117). Thomas had been appointed "to measure and allocate their [R.N. Spence, John Budge, Basil Pole, and James Williamson] respective proportions of that portion of the commonry or scattald of Reafirth and Gardie originally allocated to the late Mr. Charles Ogilvy and situated to the south of Mid Yell Voe..." (SC12/53/12, p. 176).

Scattald of Sandwick

The scattald of Sandwick, consisting of 6150 acres, occupied a broad strip across the island of Yell from Fugla Geo to Burra Ness (HU5098). In 1818 Hosea Hoseason, in a letter to Thomas Mouat, proposed a division of the scattald. Hoseason had made a plan of the scattald (missing). As a small landowner himself, he talked of their unfair treatment. The large landowners authorized their tenants to enclose parts of the scattald, but when the 'peerie' lairds followed their example, they were interdicted. Therefore, Hoseason wanted a fair division by submission and arbitration (NRA (Scot) 0450/2376, 2378-2382 incl., 2386-2389 incl.). In 1868 G.C. Roger, land surveyor, made a plan of the scattald (Garth maps - 1867 and 1868 maps of Sandwick; RHP236, 3952, 9107, 14994, 10612). The scattald was divided in the same process as the scattald of Brough in 1872 (see Brough).

Scattald of West Sandwick

The scattald lay on the hill land surrounding the town of West Sandwick (HU4687). Nothing is known of the division of this scattald.

Scattald of West Yell (including Ulsta and Strand)

The scattald was located on the hills surrounding Cro Water (HU 4684). The Scottish Record Office recently acquired a new map called called 'Map of the Commonities or Scattalds of Ulsta and Strand now called West Yell' (RHP 38133), which shows the Ulsta and Strand scattald

boundaries but there is no hint of a division having occurred. The map is c. 1860 since it shows 'Bruce Henderson's share' in Nipoback scattald which was divided c. 1860. The Bruce of Symbister collection includes a 'Copy Description of the Scattald Marches in Yell surveyed by Gilbert Neven, baillie in Yell 1667' which helps to clarify the northern boundary of the scattald (GD144/157).

Scattald of Wilhelmina

The scattald is located on the northwest flanks of the Hill of Arisdale (HU4885). An action of division was brought before the sheriff court regarding Otterswick and Wilhelmina (see Otterswick).

Scattald of Windhouse

The scattald of Windhouse, whose extent is not known, lay to the south of the scattald of Sandwick along the Hill of Colvister (HU5096). In 1824 William Sievwright produced a 'Report of Perambulation of boundaries of Windhouse scattald'. At first, Wilhelmina hoga was a part of Windhouse scattald but witnesses claimed that Wilhelmina hoga was a separate and distinct scattald over which all the conterminous scattald proprietors had a right of pasturage (Garth -2 Oct. 1824 Lerwick Report of Perambulation...). Several maps exist that give an idea of the scattald boundaries. The boundary of Windhouse and Reafirth is shown on the plan for the division of Reafirth (RHP236). Two maps in the Garth collection are useful. One is an 1867 'Map of Brough and Sandwick Scattald' showing the mutual Windhouse-Sandwick boundary and on the Windhouse side of the boundary it says 'Windhouse Scattald (divided)' 'Lumbister and Volaster Scattald divided' (NRA (Scot) 0450 - maps). Windhouse is also mentioned in the summons of division for Sandwick since they had a mutual boundary somewhere in the vicinity of Evra Loch (Mouat v Zetland - CS46 19/4/1872 summons). A map of Lumbister, Volester and Windhouse scattalds shows the northern boundaries of the latter (NRA (Scot) 0450 Plans).

BERE, BEAR, BIGG Old Norse word referring to a type of barley with four rows of grain (Hordeum vulgare).

CAA, KAA To herd or gather in sheep. This term is also used to refer to the driving of whales ashore.

CASSIES Straw baskets used to carry things such as peat or manure.

CASTE Refers to the cutting of peat, which usually occurs at the end of May.

COMMON MOSS Peat bog area usually left undivided during the general division of the commonty or scattald and the proprietors used it jointly until the peat supply became exhausted. Then perhaps a division of the land would occur.

COMMONTY The common property held by one or more proprietors in proportion to their arable or township land with rights of servitude extending to others. In Scotland each township or group of townships possessed a recognized commonty which lay beyond the head or township dyke. It was delineated by division lines based on landmarks although rarely was it enclosed. The land was used primarily for grazing but also for fuel, food and building materials, and as such it played a vital part in the subsistence agriculture of Scotland.

CORN, KORN Old Norse word meaning grain.

CROFTER Refers to "a tenant of a holding from year to year, who habitually resides on his holding, the rent of which does not exceed £ 30 in money and which is situated in a crofting parish" (Parliamentary Papers I, Crofters' Holding (Scotland) Bill, 1884-85, 318).

CROFTING PARISH "means a parish in which there are at the commencement of this Act, or have been, within eighty years prior thereto, holdings consisting of arable land held with a right of pasturage in common with others and in which there still are crofters at the commencement of this Act" (Parliamentary Papers I, Crofters' Holding (Scot) Bill, 1884-85, 318).

CRU, CRO A small enclosure generally applied to a sheepfold or an enclosure for cattle and synonymous with gaard or gerdi.

DELLING, DELVING Ploughing.

DIVOTS Sod used for roofing. (see Feals)

DYKES, DIKE A wall delimiting an area of land and built of stone or turf or a combination of both.

"
FEALS, FLAAS Different words referring to the sod or turf cut from the surface of the land and used in building the walls and roofs of crofts.

FLOSS Rushes cut to make baskets.

GERDI, GARDR, GARTH An enclosed place, a yard, sometimes used for sheep or cattle (see Cru). The word is found frequently in Shetland farm names.

GLEBE Arable and pasture land belonging to the parish church.

GRIPPING A system of land acquisition whereby the owner seized land at will from the common land or scattald and enclosed it for his personal use.

HAAF The deep sea.

HAGI, HOGA Hill pasture or grazing area beyond the head dyke. The word Hoga survives in place names and some common nouns, though it has been replaced by the word scattald in the sense of hill grazing.

HAIRST Shetland word for harvest time.

HOLDING "...any piece of land held by a crofter, consisting of arable or pasture land, or of land partly arable and partly pasture and which has been occupied and used as arable or pasture land (whether such pasture land is held by the crofter alone, or in common with others) immediately preceding the passing of this Act..." (Parliamentary Papers II, Crofters Holding (Scot.) Bill, 1886, 148).

INFIELD/OUTFIELD SYSTEM Infield referred to the best land inside the town dykes, usually located near the farm complex. The field received all the dung and was ploughed and sown with barley. The outfield was poorer quality land farther away from the farm. It received no dung and little ploughing and was usually sown with oats.

KAIL (YARD) A garden situated near the house where kail and other vegetables for domestic use were grown. Often young kail (kale) plants were transferred from plantie-crus to the kailyard.

KELP INDUSTRY A brown seaweed, the burnt ashes of which were used as a source of iodine. (see Tang)

KISHIES A basket carried on one's back.

LEADING THE PEATS A term to express the process of transporting the peats from the bog to the croft.

LERWICK The name of the major village in Shetland which literally means mud bay or clay creek in Old Norse. It was founded during the herring boom in the seventeenth century to serve the Dutch boats that sheltered in the bay.

LEY Vacant land possessing no tenant. The landowner pays no taxes on ley land.

LOAN Wide tract of land linking the township to the commonalty or scattald.

MARCH, MARK A boundary.

MERK A formal denomination of land used for the purposes of assessment. A measurement based upon the relative value or quality of land.

NORN Ancient Norwegian language spoken in Shetland until the late 1600s.

OUTSET Enclosures from and upon the scattalds. These newly-enclosed hill farms were located on the fringes of the old settlements or out in the scattald.

PEERIE Little.

PLANKED The reorganization and apportionment of the runrig area so that each person's property was then concentrated in one block.

PLANTI-COTE, CRU, CRUIVES, CRUBS Enclosures made of stone used to protect the cabbage plants through the winter. The seeds were sown in July in the enclosures and left to sprout during the winter. When spring came the young plants were then transplanted into the croft gardens.

PONES Turf stripped from the surface of the scattald and used for roofing the cottages. (see FEALS)

RAISING Placing the peats on their ends with five or six pieces leaning against each other to dry.

RIDING THE HAGRA, HAGI A judicial procession by the inhabitants every few years to inspect and recognize the local scattald's boundaries. By 1745 this practice was still continued in one or two parishes although most areas had abolished it.

RIG, RIDGE Strip units of land making up a farm and valued in merks. Rigs were formed as a result of ploughing practices.

ROOM A piece of cultivated or arable land in Orkney and Shetland found within the town dykes and shared by a group of farmers. Where the township was small the term was also applied to the township itself (roomland).

RUE, ROO The act of removing the fleece of the Shetland sheep by pulling it out by hand as opposed to shearing.

RUNRIG Referred to an intermixture of rigs or strips of arable land which were subdivided by open drains and possessed or tenanted by several persons.

SCALPING Removing turf from the scattald to use as fertilizer. This process left great tracts of land bare, exposing its subsoil or bed rock.

SCATT An Old Norse tax or tribute payable to the Crown from all cultivated lands except from those areas recently improved, called seater land. During the nineteenth century this tax was paid to the Earl of Zetland as a Crown donatory.

SCATTALD Refers to a distinct regional variant of commonly located only in Shetland, the origin of which is found in Old Norse law. During the nineteenth century the word scattald referred to the defined but uncultivated hill pasture of common usage, utilized by several townships having rights to the hill as a place for, among other things, the pasturing of animals and the casting of peats. Each proprietor paid scatt entitling him to rights on the scattald effeiring to the value of his roomland or townshiplate. The parishes were divided into several scattalds. Even today these areas of rough pasture land cover most of Shetland's landscape while the arable land is limited to small patches within the roomlands. (Highlands and Island Development Board survey in 1972 estimated that rough pasture land covers 95% of the land).

SOUMING Grazing rights. A crofter's share of livestock on the pasture. The relative proportion of cattle and sheep to pasture.

STEADING Abode, dwelling place, farm 'stead'. It comes from the Old Norse word stadr.

TANG A Shetland word for seaweed.

TOWN, TOWNSHIP, TOWNLAND A collection of houses surrounded by cultivated or arable land and contained within a town dyke. A town usually consisted of several rooms.

TRUCK A system of barter that operated in Shetland until the last decades of the nineteenth century. The landowners provided their tenants with the necessities of life in return for the right to buy their fish, and out of the proceeds the tenant then paid for the goods that he had received. In 1874 the Truck Commission was established and its aim was to require that wages be paid in coin without stipulation as to the manner in which it was to be expended.

TUSHKAR Turf or peat cutter.

UDAL, UDEL, ODAL The Old Norse system of tenure. Udal lands were owned by a multiplicity of proprietors. It was a system of owner-occupiers in which the udallers or little heritors conveyed their estates to their successors by a title called Udall Succession.

UDALL SUCCESSION A verbal title or deed whereby lands and heritage were transmitted and divided equally among the offspring.

VOAR, VORE The Shetland word for spring or seedtime.

Selected Sources:

Adams I.H. Agrarian Landscape Terms: A Glossary for Historical Geography. London: Institute of British Geographers, 1977. Special Publication Number Nine.

Jakobsen Jakob. An Etymological Dictionary of the Norn Language in Shetland. London, 1928. 2 vols.

Longmuir and Donaldson, editors. Jamieson's Dictionary. Paisley, 1879-82.

ACT & COMMISSION A form in the judicial proceedings of the Court of Session when a commission is given by the court to a person (commissioner) for taking proof in a depending action.

ACT & DIVISION OF COMMONTY, 1695, CAP. 69 Since the terms scattald and commonty had acquired similar meaning by the eighteenth century, both types of common land could be divided legally under the 1695 act at the instance of any one party having an interest in the land concerned, or by agreement. With the act landowners could clarify the contemporary state of land proprietorship.

ARBITER A person chosen by the parties in a dispute to decide their differences. A judge.

ARBITRATION The reference of a dispute to the determination of persons appointed by the parties and the decision that follows, usually affected by means of Submission and Decree Arbitral. (Bell, 1826, I, 57).

COMMISSIONER A judge whose task is to keep a record of all stages of a process and then to submit it to the Court of Session. He is appointed by the Court of Session to act on the court's behalf in the vicinity of the commonty to be divided.

COMMON PASTURAGE Servitude (Scots Law) The person in whose favour the servitude exists (dominant subject) is entitled to pasture a certain number of animals on grass grounds of the servient subject. The right is established by grant (consent is expressed in a deed followed by possession) or prescription (possession must have continued for 40 years uninterrupted to render the servitude real and effectual) (Bell, 1826, I, 251).

COMMON PROPERTY Land belonging to more than one proprietor pro indiviso. Division may be accomplished extrajudicially or on a brief of division directed to the sheriff (Bell, 1826, I, 252).

COMMONTY Similar to Common Property except that the common undivided ground is also burdened with rights of servitude. No regular method of ascertaining the rights of the parties in a commonty existed until the Act 1695, cap. 38 made all common-ties (excluding those belonging to the King and royal burghs) divisible at the instance of any having interest by an action in the Court of Session against all parties concerned. (Bell, 1826, I, 252-3).

CONSUEUDINARY LAW "or Customary Law in contradiction to written or statutory law, is that law which is determined by immemorial custom from remote antiquity " (Bell, 1826, I, 302; also Erskine 1895).

CONVEYANCE Transfer of property.

COURT OF SESSION Scotland's premier civil court. The court of Session papers include witnesses' depositions, surveyors' reports, plans etc. and these documents give a picture of the commonalty or scattald as an intricate part of rural life.

DECREE Final judgement, e.g. Decree Arbitral (Bell, 1826, I, 59).

DEFENCES A statement by way of defence lodged by the defender in a civil action.

DEFENDER Party against whom a civil action is brought.

DEPOSITION The giving of sworn evidence.

DILIGENCE The warrant issued by courts for enforcing the attendance of witnesses, or for the production of writings before a commissioner.

EXCAMBION To exchange (land). Scottish law. Contract whereby one piece of land is exchanged for another (Bell, 1826, II, 114).

INTERDICT An order of the court (Court of Session or Sheriff Court) for stopping any unlawful proceedings (Bell, 1826, II, 114).

INTERLOCUTOR An order or decision of the court short of the final judgement, however in practice the term may be applied to any order of the court.

MINUTE A document forming part of a process by means of which a party defines his position as to certain procedural matters.

PART & PERTINENT A legal phrase meaning the heritor not only owned land but he also had the right to use other lands. These rights were referred to as Rights of Servitude and they included such things as the right to graze animals on a particular scattald or to cut peats there without the heritor actually owning a share of the common land. In order to discover what individual owner's rights entailed the commission would ask witnesses to account for where they allowed their animals to graze.

PERAMBULATION To formally establish the boundaries of an area of land by walking around them.

PETITION An application to the judge (commissioner) stating the case and the judgements and craving an alteration of the judgement.

POIND, PUND In general, to take a debtor's movables by way of execution. In Shetland the most common references to this was with respect to straying sheep. It referred to the act of seizing or impounding stray animals until a fine was paid by their owner(s) for the animals' release (Bell, 1826, II, 309; Gibb, 1946, 65).

PRESCRIPTION The passing of forty years which confers rights.

PROCESS The series of steps taken in a legal proceeding, from the first to the last, by which an action or prosecution is brought under judicial cognisance.

PROCURATOR An old term for a solicitor.

PRODUCTION Articles produced as evidence in court.

PURSUER Person suing in an action.

RIGHTS OF SERVITUDE The right to use another's land for such things as the acquisition of peat or the grazing of animals.

SASINE Seizing or putting into possession of land by registration of an Instrument of Sasine.

SOUMING OR ROUMING Old law terms signifying the action whereby the number of animals to be brought into the common by those persons having a servitude of pasturage, may be ascertained. (Bell, 1826, II, 449)

SUBMISSION Originates procedure in the Sheriff Court, and describes the nature of the reference and the name of the referee (arbiter). It also defines the arbiter's powers and specifies the time within which a decision must be reached (Bell, 1826, I, 57-8).

WAKENING If at any time after the calling of a Summons, no judicial proceedings take place in the action for a year and a day, the depending process falls asleep, and may be awakened at any time within the period of the long prescription either by written consent of the parties or by an action of wakening (Bell, 1826, II, 563).

WRIT Any writing possessing legal significance.

WRITER An old name for a solicitor.

Selected Sources

Adams I.H. Personal Communication.

West Register House, Edinburgh, 1976-79.

Barclay Hugh. A Digest of the Law of Scotland. second edition. Edinburgh: Murray and Gibb, 1855.

Bell G.J. Principles of the Law of Scotland. Edinburgh, 1829.

Bell Robert. A Dictionary of the Law of Scotland. Edinburgh, 1826 .

Erskine J. Principles of the Law of Scotland. nineteenth edition.
Edinburgh, 1895.

Gibb A.D. Students' Glossary of Scottish Legal Terms.
Edinburgh: W. Green and Son Ltd., 1946.

The Public General Statutes Affecting Scotland.
Edinburgh: W. Blackwood and Sons, 1877.

Watson George. Bell's Dictionary and Digest of the Law of Scotland.
Edinburgh and London, 1882.